should have the same privileges as selectors under this Bill,

Mr. STRACHAN moved that, after the words—

"Who shall have obtained from the board a certificate that he has complied with the conditions respecting residence and improvements and all other conditions and covenants of his lease," the words "or the assigns or transferees of such lessee" be inserted.

The amendment was agreed to.

Mr. O'SHANASSY moved that, after the immediately succeeding words—"shall after the expiration of three years from the commencement of such lease be entitled to demand and receive a grant from the Crown of the said allotment in fee simple on payment of," and before the words "one pound an acre," the words "in the whole" be inserted.

The amendment was agreed to.

Mr. O'SHANASSY moved that the following proviso be struck out:—

"Provided, nevertheless, that all payments on account of rent after the expiration of three years from the commencement of the said first-mentioned lease, shall be deemed and taken to have been paid and received as part of said purchase money."

The proviso was unnecessary after the last amendment.

The amendment was agreed to.

The Bill was then reported with amendments.

MINING COMPANIES BILL (No. 2).

The Hon. C. J. JENNER.—Mr. President, I rise to move the second reading of this Bill, the object of which is to legalize the forfeiture of mining shares. Unless it becomes law without delay, a great wrong will be done to many individuals who, until recently, have been under the impression that they could forfeit shares when calls had not been paid. Honorable members are aware that the mining community has been thrown into confusion in consequence of a decision recently arrived at on this point by a judge of a court of mines, which decision was sustained on appeal to the Supreme Court. The Bill is one of very great importance, as it represents some millions worth of capital. I hope, therefore, that honorable members will allow it to pass through all its stages at once, and thus prevent a large amount of litigation, which I am sure the House will not desire to see.

The Hon. P. RUSSELL seconded the motion, which was agreed to.

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

On clause 3, which provided that notice "heretofore or hereafter" in the Government Gazette of forfeiture of mining leases should be conclusive evidence of such forfeiture,

The Hon. T. T. A'BECKETT remarked that a very elaborate petition had been presented to Parliament on the subject of this clause, praying that the retrospective element of it should be eliminated. He suggested that the clause should be postponed, in order to give honorable members an opportunity of considering whether the suggestions of the petitioners should be embodied in the Bill.

The Hon. W. A'BECKETT referred to the words "heretofore or," and moved that they be struck out.

Mr. T. T. A'BECKETT pointed out that those who had rendered valuable mining land which a few years ago was utterly valueless, were in a position of most unfair disadvantage with respect to those who—withstanding the proclamation in the Government Gazette—sought by some legal technicality to prove that they were still in a position to come forward and resume possession of it. Such persons ought not to be encouraged in a dishonest proceeding of that kind. The object of the petitioners was to prevent them from taking advantage of their expenditure.

Mr. JENNER said that, as it appeared to be the desire of the committee that the consideration of the clause should be postponed, he would consent to that course. He might, however, say that the Mining Board of Ballarat had approved of the Bill as it stood, and that the Government had received a telegram from the Mining Board of Sandhurst, asking them to endeavour to pass the measure unaltered with as little delay as possible.

Progress was then reported.

The House adjourned at two minutes past six o'clock, until Tuesday, November 16.

LEGISLATIVE ASSEMBLY.

Thursday, November 11, 1869.


The Speaker took the chair at half-past four o'clock p.m.
LAND CERTIFICATES.
Mr. MCKEAN, pursuant to order of the House (dated October 28), laid on the table a return relating to lands taken up under certificates.

ASSENT TO BILLS.
Shortly after half-past four o'clock, the Usher of the Legislative Council brought a message from the Governor, requesting the attendance of honorable members in the chamber of the Legislative Council.

The Speaker, accompanied by the members present, and attended by the Acting-Clerk and the Sergeant-at-Arms, proceeded to the chamber of the Legislative Council.

Returning in a few minutes,
The SPEAKER read the list of Bills to which the Governor had given the Royal assent.

PETITION.
A petition was presented by Mr. WALSH, from a number of hotel-keepers in Melbourne and the suburbs, against the passing of the Wines, Beer, and Spirits Salo Statute Amendment Bill in its present form.

WESTERN RAILWAY.
Mr. RUSSELL asked the Minister of Railways if he intended to give instructions for the survey of the country between Meredith and Beaufort, with the view of ascertaining the practicability of accommodating the populous townships of North Grenville by means of the proposed railway to the westward; and if it was the intention of the Government to cause statistics of the population and industries of North Grenville and other western localities to be prepared? The honorable member remarked that £6,000 had been voted for the purpose of making the survey to which he referred and others, but nothing had yet been done in the matter. As to the second question, he begged to remind the Government that complaints were frequently made of public works being undertaken without sufficient statistical information being obtained in the first instance to show that they were necessary.

Mr. LONGMORE stated that he could find no record in his department of any promise to survey a line in the direction indicated, and he believed that the vote of £6,000 would not enable such a survey to be made at present, as the money had been spent in other surveys. Care would, however, be taken to cause the statistics of North Grenville to be collected, with a view to ascertain whether it would be advisable to construct a line in that direction.

Mr. RUSSELL said that a promise was given in the House that the country between Meredith and Beaufort should be surveyed in connexion with the proposed Western Railway. He hoped that the Minister of Railways would give a more definite answer; if not, it would be necessary to propose a motion on the subject.

VICTORIAN RIFLE ASSOCIATION.
Mr. JONES called attention to the omission from the Estimates of a sum of £300, heretofore granted yearly as a subsidy to the Victorian Rifle Association in aid of their matches, and asked the Chief Secretary whether he would place a similar amount for that purpose on an Additional Estimate for this year? He thought it desirable that this small subsidy should be continued, as an incentive to the volunteers to increase their skill in the use of the rifle.

Mr. MACPHERSON intimated that the Government saw no reason why the grant should not be continued, and that they would place the amount on the Additional Estimates.

EXCURSION TRAINS.
Mr. JONES directed the attention of the Minister of Railways to the defective arrangements on the Ballarat line for Saturday excursions to and from Geelong, and asked that improved facilities might be given to residents on Ballarat to visit Geelong per rail. The honorable member stated that persons living at Ballarat could obtain tickets, at ten per cent, increase on the ordinary single fare, enabling them to visit Melbourne by the first train on Saturday mornings and return up to the last train on Monday, but the same facility was not afforded for travelling between Ballarat and Geelong.

Mr. LONGMORE said that he had the matter under consideration, and that he proposed to extend the issue of excursion tickets from Ballarat to Geelong, as suggested.

POLICE PROTECTION AT BEEAC.
Mr. CONNOR called the attention of the Chief Secretary to the want of police protection at the township of Beeac, and asked if there was any objection to the establishment of a police station at that
place? The honorable member remarked that the people of Beeac were a quiet and industrious community, but they had on different occasions been visited by thieves, and, as the nearest police-station was situated at Colac—ten miles distant—it was difficult to bring the criminals to justice. The late Chief Secretary promised that a constable should be stationed at Beeac. The township now comprised some forty householders, and settlement was largely increasing in the district.

Mr. MACPHerson replied that he had made inquiries into the matter, and had been informed that the inhabitants of Beeac were so industrious and quiet that there was no necessity for police protection. He believed that his predecessor in office came to the same conclusion. As, however, it had been pointed out that in harvest time there were sometimes disorderly scenes, a constable would be stationed there during that season to preserve order.

MR. THOMAS BURY.

On the motion of Mr. F. L. SMYTH, leave was given to the select committee appointed to inquire into the claims of Mr. Thomas Bury to meet on days that the House did not sit.

RAILWAY EMPLOYÉS.

Mr. HANNA (in the absence of Mr. Kernot) moved—

"That there be laid upon the table of this House the evidence taken before the boards appointed to inquire into the several charges of drunkenness in the locomotive department during the years 1867 and 1868; also an account of the number of fines and suspensions during that period, and for what causes."

The motion was agreed to.

STATE AID TO RELIGION.

Call of the House.

Mr. MACPHerson moved—

"That on Thursday, 18th of November instant, the House be called."

Mr. J. T. SMITH seconded the motion, which was agreed to.

MUNICIPAL CORPORATIONS LAW AMENDMENT BILL.

The report of the committee on this Bill was considered and adopted.

Mr. BATES proposed the insertion in clause 7, relating to existing boroughs and their boundaries, of the words—"and no part of the area comprised within any such borough shall henceforth be within or parcel of the city of Melbourne." He explained that the amendment was rendered necessary by an alteration which had been made in the boundaries of East Collingwood, as set forth in the first schedule.

The amendment was agreed to.

Mr. HARCOURT proposed an amendment in clause 10, with a view to enable the Governor, on the petition of 150 inhabitant householders, to divide an existing borough into two boroughs.

Mr. CREWS objected to the amendment, which, he said, was quite opposed to the principle of recent municipal legislation. The tendency of late years had been in favour of increasing rather than diminishing the size of boroughs, for the reason that the management of a large borough was no more costly than the management of a small one. The Bill would enable any part of a borough which did not think itself properly represented in the local council to petition for the division of the borough into wards, and thus the interests of every part of a municipality would be attended to; but, if the amendment were accepted, whenever a local squabble took place there would at once be an agitation for separating the disaffected portion of a borough from that portion, and erecting it into an independent municipality. At present one part of Richmond was discontented with the other portion, and, although the borough was divided into wards, nothing would please the discontented portion better than separation. Yet, if that took place, the management of the municipal affairs of Richmond would cost just about double what they did at present. Returns which had been laid before the House showed that, in many existing boroughs, nearly the whole of the rates were swallowed up in the expenses of management. Therefore he considered that to adopt the amendment would be to legislate in the wrong direction.

Mr. JONES thought the power of dividing boroughs might be taken under the Bill without disadvantage to Richmond or any other borough. A borough would not be divided except with the sanction of the Governor in Council, and it was not to be supposed that a petition for separation would be presented until the people who desired separation were strong enough to separate. The wholesome results of separation, when it could safely be undertaken, could be seen in the cases of Emerald
Hill, Sandridge, Fitzroy, and Hotham, all of which were, at one time, wards of the city of Melbourne.

Mr. McCULLOCH considered that a fatal objection to giving the Governor in Council power to divide boroughs was that the boundaries of existing boroughs were fixed by the Bill. It would be giving to the Governor an arbitrary power to interfere with the decision of Parliament. He concurred with the honorable member for South Bourke (Mr. Crews), that if boroughs were divided the rates would be expended, not on improvements, but on the expenses of management. He thought the tendency of matters in connexion with municipal government was towards union rather than separation; and he believed that the time was not far distant when some of the suburban boroughs would again form part and parcel of the city of Melbourne. He could cite a case, in the old country, of a number of small boroughs being created by separation from a large borough, and afterwards finding it to their interest to lay down their independence, and re-unite with the large borough. He should oppose the amendment.

Mr. FRANCIS stated that the Richmond Borough Council had passed a resolution expressing its entire disapproval of the amendment; and that, at a public meeting held in the south ward of the borough, a contrary decision had been arrived at. He considered the preponderance of feeling in Richmond was opposed to the amendment, and therefore he should vote against it.

The amendment was negatived.

Mr. CASEY proposed, in clause 311, relating to the dedication of private streets to the public, the insertion of words limiting such dedication to streets which were "the property of more than one owner in fee."

The amendment was agreed to.

On the motion of Mr. CASEY, formal amendments were made in clauses 346, 347, and 351.

Mr. BURTT proposed an amendment in paragraph 31 of the 1st schedule, with a view to include within the boundaries of the borough of Hotham the locality known as Flemington-bank.

The amendment was agreed to.

Mr. KERFERD (in the absence of Mr. Fellows) proposed an alteration in the boundaries of the borough of Queenscliff.

The amendment was agreed to.

Mr. CASEY proposed the omission of the second schedule as unnecessary, owing to the clause relating to Thomson Ward, Geelong, to which it referred, having been struck out.

The amendment was agreed to.

At a later period of the evening, on the motion of Mr. MACPHERSON, the Bill was read a third time and passed.

SCAB ACT AMENDMENT BILL.

The consideration of the amendments made by the Legislative Council in this Bill (adjourned from the previous evening) was resumed.

On the question that the House should agree to the series of new clauses providing for the appointment of boards of directors.

Mr. G. PATON SMITH observed that the Government, in proposing to agree to these clauses, had shown very little regard for the agricultural interest as opposed to the pastoral interest. The clauses proposed to create local boards of directors, who were to exercise the most extraordinary powers, and were, in fact, to supersede, for all practical purposes, the scab inspectors. But the clauses were not in such a shape as, if accepted, to allow of the Bill becoming a workable measure. For instance, there was no provision for the registration of persons who were to vote for directors. There was a provision that the bonâ fide owner of more than 500 sheep and the manager for a bonâ fide owner of more than 8000 sheep should be competent to vote for directors; but there was no provision for ascertaining who were the persons eligible to vote. He could find no means by which an election could be set aside, if directors were elected by persons not qualified to vote. One provision was to the effect that "any five or more of the persons competent to vote" might meet at a particular place and elect a board of directors, but there was no provision of ascertaining their competency to vote. The clause which provided for the filling of vacancies in a board, caused either by the death or retirement of members, said—

"Any vacancy in the board of directors for any division shall be filled up by election held in manner hereinbefore provided with respect to annual elections, by a special meeting at such place, and on such day as the Minister shall in like manner fix and notify; and, if any vacancy shall not have been filled up at such meeting, it shall be lawful for the Minister to appoint some person nominated by the Chief Inspector to fill such vacancy."
Why what was the colony coming to under a system of responsible government, when the Chief Scab Inspector was to have the power of nominating a member of a board of direction? Fancy a mandamus issuing against the Minister for omitting to appoint a director nominated by the Chief Inspector. Another clause set forth that—

"No director shall act as a director or, under the subsequent provisions hereof, as inspector in any matter or thing in which he is personally interested, or as a director in any case in which he has personally acted as an inspector; and any director who shall offend against the foregoing provisions of this Act shall on conviction forfeit and pay, &c."

Why there was no squatter who had scab upon his boundary who would not be interested. No squatter, within any division, could act with regard to the sheep of any other owner without coming under this disqualification; he was personally interested in suppressing scab, and imposing penalties for its prevention. Was it to be said that these men, in their capacity of directors, were to order the destruction of sheep, and exercise all the other powers contained in the Bill? Then another clause proposed that very extraordinary powers should be conferred on these gentlemen. It said—

"It shall be the duty of the inspector, whenever thereunto required by the board of directors for the division, to attend any meeting of the board, and to confer with the said board touching any matter concerning the execution of this Act within the division; and if at any time the board shall, as to any such matter, request of the inspector to exercise any power hereby conferred upon him, such inspector shall either comply with such request or forthwith state in writing to the board his reasons for not complying therewith, and such writing shall forthwith be transmitted by the board to the Minister; and, if any inspector shall without lawful excuse make default contrary to any of the foregoing provisions of this section, he shall on conviction forfeit and pay for such offence a penalty not exceeding £20."

And yet, in the event of a vacancy on a board, the Chief Scab Inspector was to nominate the new director. He did not think it necessary to comment on the other amendments made in the Bill by the Legislative Council. He might call attention to the fact that clause 32, which contained a definition of scabby sheep, was struck out. It might be that there were amendments further on which rendered that clause unnecessary; but he thought he had said enough to show that a blow had been struck at the radical principles of the Bill. He could conceive all sorts of abuses arising from the operation of the clauses relating to boards; and he submitted that it would be a disgrace, to the House to give one tithe of the powers proposed to persons nominated in the manner provided for by the amendments. In fact, the powers contained in the Bill were so large that they could only be exercised properly under the direction of a Minister responsible to Parliament. When the Bill was under the consideration of the House before, it contained a provision for the creation of boards of advice. He could conceive that, when cases of difficulty arose, it might be exceedingly useful to have boards of advice, whose business it would be to inform the Minister of the actual state of affairs in a particular district, but who would not be allowed to control inspectors, nor to exercise any of the large powers contained in the Bill. If the House was prepared to go on with the measure, he would endeavour to substitute for the whole of the clauses relating to boards; and, Clause 32, which empowered the Governor in Council, from time to time, to appoint suitable persons (not less than three nor more than seven) to form a board of advice for each scab division. He thought that would meet the whole case, and at the same time retain power where it ought to be—namely, in the hands of the Minister administering the department and responsible to the House. He trusted that the House would refuse to read the clauses a second time.

Mr. KERFERD suggested that, considering the number and character of the amendments made by the Legislative Council, the more convenient course would be for the Government to allow the Bill to drop, and introduce a new Bill embodying the whole of these amendments. The Bill, as returned from the Legislative Council, was practically a new Bill, and if the amendments which had caused this transformation were dealt with in the usual manner, the House would be carrying at one consideration a measure which had passed through all its stages in another place. The course which he suggested would be not only more convenient and more dignified; but would more effectually conduce to good legislation,—because they ought not to shut their eyes to the fact that, if amendments of a comprehensive character like these could be made in a Bill, a measure might be entirely changed in another place, and, in dealing with such amendments in the mode now
Mr. MACPHERSON remarked that under ordinary circumstances he would have pursued the course suggested by the last speaker, but under present circumstances he did not think it desirable to do so, because the whole matter was in a nutshell. The question for the House to determine was whether the principle of local boards should be adopted, or whether the administration of the Bill should be left to the Minister of the department. He had some difficulty at first in deciding for or against local boards; his own impression was that it would be more desirable to leave the matter in the hands of the Minister for the time being; but when he found that the parties most interested claimed to control their own funds—a tax being levied upon them—he could not see why the principle of local self-government should not be applied to them.

Mr. MCCULLOCH.—What about the small sheep-owners?

Mr. MACPHERSON admitted that was a difficulty, but the small sheep-owners were not asked to contribute. In such a matter as this the Legislature should endeavour to carry out what was most practical, the object being to have a good Scab Bill. There was no great difference between the two plans. Both had worked well—the one in New South Wales, and the other in South Australia. He was in favour of boards of advice, but he refused to have them on the terms suggested by the late Administration, who proposed to convert the members of these boards into travelling inspectors, and pay them. Now the boards proposed by the Legislative Council would be paid only their travelling expenses. With regard to the question whether the Council's amendments would work, he declared unhesitatingly that they would work. The honorable member for South Bourke (Mr. G. Paton Smith) took exception to directors being appointed on the nomination of the Chief Inspector. But the object of that provision was to prevent the Government being earwigged into appointing incompetent persons. What would the Minister who had to administer the Bill know about the appointment of directors, unless he had the assistance of such a person as the Chief Inspector? Without intending to attribute any personal unfitness to the late Attorney-General, he believed that he was not within the practical experience and scope of a law officer to administer an Act for the eradication of the scab disease. No doubt the late Chief Secretary handed over the department to the Attorney-General because it was desirable that he should prepare a Bill to amend the Scab Act, for which purpose he would have to put himself in communication with the chief scab inspector, sub-inspectors, and other gentlemen connected with the administration of the Act. The honorable and learned member, however, could have no practical acquaintance with the subject. The members of the Legislative Council who had suggested the amendments which had been made in the Bill deserved credit for the simplicity of the machinery which they had devised. The amendments practically left the whole matter in the hands of the sheep-owners themselves. They provided that five persons, duly qualified, might elect a board of directors in any district. The number of persons entitled to appoint a board of directors was not limited to five, but if there were only five persons in any district who took sufficient interest in the matter to elect a board, it would be in their power to constitute a board. (Mr. Wilson—"Suppose they elect to keep a district scabby?") No man who owned diseased sheep was capable of being elected a member of a board. The single question for the House to determine at present was whether there should be boards or no boards—whether the administration of the Act should be in the hands of the chief inspector or of directors to be chosen by the sheep-owners themselves. If the House decided to accept the principle of appointing boards, amendments might be made in the details of the clauses which provided for their election.

Mr. VALE was glad that the Government would accept the result of the division as virtually determining the fate of the whole of the amendments. The policy of the clauses was not in favour of the eradication of scab, but of the extermination of all the small owners of sheep in the colony. It was far better that the arrangements for the eradication of the scab disease should be under the direction of a Government department, controlled by a Minister responsible to Parliament, than in the hands of irresponsible boards. If boards were established, there was no reason why the owners of less than 500 sheep should be prohibited from voting in the election of the members of the boards.
Mr. RIDDELL remarked that the question of establishing boards was discussed before the Bill was sent to the Legislative Council, and was very generally condemned. It had been said that the principle had succeeded in New South Wales, but the fact was that there were very few scabby districts in that colony, and even in those districts the boards protected their friends. If it were decided to have boards, he thought that every sheep-owner should be entitled to vote in the election of the directors; but he was totally opposed to the principle involved in the appointment of boards.

Mr. LANGTON urged that the result of the adoption of the principle in New South Wales, where it had been three years in operation, justified the establishment of boards as an experiment in Victoria. He believed that the sheep in New South Wales were cleaner than those of any other colony. The want of a proper register of electors would be no practical difficulty against the election of the proposed boards, because the returning-officer would know all the sheep-owners of the district in which he presided. The same course was proposed to be adopted at the election of the directors as was pursued at the first municipal election in the colony, when the returning-officer decided whether the persons who presented themselves to vote were duly qualified. With regard to the objection that it was not proposed to allow owners of less than 500 sheep to vote, he would point out that they would not have to contribute to the scab fund, and that, if it was decided to tax them and permit them to vote, the expense and trouble of collecting their contribution, in the event of their not transmitting it, would be out of all proportion to the amount.

Mr. McCAW said that the principle of the amendments was fully discussed when the Bill was previously before the House, and there was no reason why honorable members should reverse the decision at which they then arrived. Such complicated machinery as was proposed would never work satisfactorily. Moreover in some districts there was not one flock which was not scabby; and how would it be possible to elect boards of directors in those districts?

Mr. EVERARD suggested that, as the amendments entirely altered the principles of the Bill, the measure should be abandoned for this session. No one was made responsible for the eradication of scab under the Bill as it stood. It was impossible, at this advanced period of the year, to deal with it effectually, and, as the existing Act would continue in force until the end of next session, it was not absolutely necessary to pass a new measure this session.

Mr. McDONNELL said that, if the amendments were adopted, the inspectors would be under the control and surveillance of the boards of directors, and also of the Ministerial head of the department. This would be a great injustice to the inspectors who, being placed between two stools, would be very likely to fall to the ground. He therefore opposed the amendments.

Mr. McLELLAN did not approve of the Bill as a whole, but he was inclined to support the appointment of boards of directors, as contemplated by the amendments, because he believed that, in all the settled districts of the country, the effect of allowing owners of 500 sheep and upwards to have a vote would be to place the election of the boards in the hands of settlers, and not in the hands of the squatters.

Mr. RUSSELL expressed the opinion that if there were to be boards they should be elected, and not appointed by the Ministry of the day. He had, however, no hesitation in saying that if the chief inspector and the sub-inspectors would do their duty, even under the present Act, the country would be cleared of scab in six months.

The House divided on the question that the amendments be read a second time:—

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Majority against the amendments 2

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Mr. MACPHERSON intimated that, after the decision of the House, he did not think it well to proceed to consider any other of the Council's amendments, because they all depended, more or less, upon those which had just been rejected.

Mr. G. PATON SMITH said, unless it were desired to shelve the Bill, it was desirable that some of the verbal amendments made by the Council should be considered.

Mr. MACGREGOR thought it perfectly futile, after what had taken place, to discuss the amendments any further. It was utterly impossible now to arrive at any understanding with the other House, in reference to the Bill, before the prorogation of Parliament; and therefore he begged to move—

"That the further consideration of these amendments be postponed until Thursday, 25th November instant."

Mr. HARcourt seconded the motion.

Mr. CASEY opposed the motion. He thought it would be an act of great discourtesy not to allow the Legislative Council an opportunity of reconsidering their amendments. Some of the amendments which had yet to be disposed of were merely verbal, and probably the House would be disposed to agree with them.

Mr. KERFERD observed that the last speaker deceived himself if he supposed for one moment that there was the smallest chance of the Bill passing into law. It was not to be supposed that another place would tamely acquiesce in the summary rejection of amendments which they had made with so much care, after the expenditure of much time, and after paying a draftsman to prepare and revise those amendments. He voted against the adoption of the amendments simply because he was of opinion that such important amendments ought not to be dealt with in the usual way, and that they could not be dealt with in any other way at so advanced a period of the session. However, he hoped the question would be one of the first dealt with next session. The Act to continue the law with regard to scab would not expire until the end of next session, and therefore there was no immediate necessity for dealing with the subject, important though it was, by legislation.

Mr. ROLFE remarked that it would be an insult to the Legislative Council not to consider the other amendments. It did not follow that they would be rejected; but, however, they might be dealt with, it was important that the House should inform the Council what it had done in the matter.

Mr. LANGTON said he could not concur with the honorable and learned member for the Ovens that there was no immediate necessity for a Bill of the kind, but he thought, after the decision at which the House had arrived, it would be utterly impossible to pass the measure this session. He believed all persons who were conversant with the subject would admit that a more competent set of gentlemen to consider practically the question with which the Bill dealt, than the committee of the other branch of the Legislature which framed these clauses, could not have been selected. But all the labour which had been bestowed upon the measure had been thrown away. Honorable members preferred to accept the advice of the honorable and learned member for Brighton, and reject the amendments, because they wanted to see what the Council would do with other Bills.

Mr. RIDDELL considered it important that the Bill should pass, and suggested that steps should be taken to obtain a conference with members of the other Chamber. He was fortified in his objections to local boards by the large meetings of squatters and stockholders held throughout the country against the proposal. He believed that boards would be only a means of perpetuating scab.

Mr. VALE objected to boards. Boards usually managed their business in a most unsatisfactory manner. He might refer, for example, to the Board of Agriculture and the Board of Education. Boards circulated responsibility, and, by circumscribing it, destroyed responsibility. But those honorable members who voted against the principle of boards were ready to consider the other amendments, and to send the Bill back to the Legislative Council.

Mr. EVERARD said he voted with the "Noes" on the late division because he made up his mind, when the Bill came back from the Council, that it was advisable, owing to the large number of amendments, to make short work of it. There could be no doubt that the Council would not agree to the Bill as it first left the Assembly. Therefore he hoped the motion of the honorable member for Rodney would be carried.
Mr. G. PATON SMITH remarked that it had been said that there was no immediate necessity for legislating on this subject, because the present Act could be administered for a few months longer.

But the present Act was a dead letter. (Mr. Macpherson—"No.") The recent decisions of the Supreme Court, under which the onus of proof that sheep were scabby rested with the scab inspector, completely upset the obvious intention of the Act. It was perfectly impossible for the scab inspector to prove the number of sheep in a flock actually infected, and yet the magistrates would fine only for the sheep actually found scabby. The Act contemplated the presumption that if one sheep was scabby the whole flock was affected, but the Supreme Court had decided otherwise. So that only a nominal penalty, a penalty not worth enforcing, could be obtained. Again the section of the Act relating to the dipping of sheep applied only to those sheep which were dipped for scab; and there was nothing to prevent a flock owner dipping scabby sheep and removing them. There was another failure of the Act, and a very important one. Travelling sheep could be seized, but there was no provision for determining what should be done with them after they were seized. Therefore it was idle to say that it was possible to administer the law for the next three or four months. He felt it incumbent to state that the country was practically without a Scab Act. He utterly repudiated the statement of the honorable member for West Melbourne (Mr. Langton) in reference to the proposition of the honorable and learned member for Brighton. He and his colleagues were prepared to consider the other amendments made by the Council, with a view to arrive at an arrangement by which the Bill might become law this session. If the House decided to do otherwise, let the onus rest on the right persons.

Mr. Macgregor’s motion was then put, and carried without a division.

FENCING LAW AMENDMENT BILL.

The order of the day for the second reading of this Bill was discharged from the paper.

EXPLORATION LIABILITIES.

Mr. MACGREGOR moved—

"That this House will, on Tuesday next, resolve itself into a committee of the whole to consider the propriety of presenting an address to His Excellency the Governor, praying that there may be placed upon an Additional Estimate for this year the sum of £332 18s., to fall and final discharge of all claims and liabilities in respect of the Burke and Wills exploring expedition.”

The honorable member stated that he rarely troubled the House with a case like this, but he had satisfied himself that the claim was one which was entitled to the consideration of the House. In 1866, the House came to a resolution declaring “that the outstanding liabilities and obligations connected with the exploration party of Burke and Wills should be discharged by the Government without delay.” Pursuant to that resolution, a sum supposed to be sufficient to cover those “outstanding liabilities and obligations” was placed on the Estimates; but, in consequence of the dispute which arose in reference to the Darling grant, the money was not paid over until the interest on a bank overdraft had amounted to £332 18s. He had in his possession a letter from the bank manager showing that the interest was charged to the Exploration Committee, and deducted from the amount voted by the House; also a statement under the hand of the chairman of the committee (Sir William Stawell), showing all the liabilities now outstanding. Among these liabilities was one of £70 for salary due to Burke. He trusted that, under the circumstances, and with the distinct understanding that this was in “full and final discharge of all claims and liabilities” connected with the Exploration Committee, the House would agree to the motion.

Mr. LANGTON seconded the motion.

Mr. VALE thought the honorable member for Rodney should furnish to the House a full statement showing how these liabilities arose. He was given to understand that one of the banks held a considerable sum of money on account of the Exploration Committee, and deducting this amount from the interest on a bank overdraft had amounted to £332 18s. Mr. MACGREGOR observed that such a statement as the honorable member referred to was already printed among the proceedings of the House.

Mr. McCULLOCH expressed his belief that these additional liabilities arose through something more than interest on a bank overdraft. The sum of £2,600 was expended by the Exploration Committee without any authority whatever,
and he considered that, before any further sum was voted, the whole details of the expenditure should be before the House. The motion was agreed to.

TELEGRAPHIC MESSAGES.

Mr. JONES moved—

"That, in the opinion of this House, the transmission and delivery of messages of ten words from and to all parts of the colony (where post or telegraph offices have been opened) for one shilling, would improve the revenue by largely increasing the business as the result of cheapening the cost to the public."

The honorable member observed that a very large outlay had been incurred in carrying the telegraphic wires throughout the colony. That outlay having been incurred by the whole public, the whole public had a right to be considered in the administration of the funds. He was persuaded that in a large number of instances the failure of telegraph offices to pay resulted from the high prices charged for the transmission of messages; the consequence was that persons who would desire to send messages that would reach their destinations in an hour or so, contented themselves with letters which would reach them the next morning. The cost of trying the experiment could not be a heavy one; and, therefore, under all the circumstances, there was no reason why it should not be tried. A good battery could be had for about £40; its working would cost from £50 to £100 a year, whilst the chemicals and all attendant requirements could be purchased for something like 10s. a year. Honorable members must be aware that in America messages were transmitted at a very much cheaper rate than they were in this country. Such was the case also in South Australia, where for a long time ten words had been sent for 1s., and where there was scarcely a village that had not its telegraph-office.

Mr. McCAW was very glad to find that the subject, to which at one time the late Government had promised its attention, had been taken up by the honorable member for Ballarat West. The statement of that honorable member with reference to the charges in South Australia, was, however, rather under the mark. In the neighbourhood of Adelaide the charge was 1s. for twenty words, and for very short distances it was even considerably lower. In this country the telegraph rates were so high that business men were precluded from using the wires to any greater extent than was absolutely necessary. For himself he could say that, if the rate was reduced even one-third lower he would send three messages for every one he sent now.

Mr. MACPHERSON said that shortly after the Government took office—in fact, immediately on their return from their elections—the question before the House was brought under the consideration of the Cabinet. After consultation with Mr. Turner and Mr. McGowan on the subject, the Government came to the conclusion that from the 1st of January next they would—if in a condition to do so—reduce the charge for telegraphic messages to 1s. for twelve words and 1d. for every additional word. The Government believed that, if this reduction were carried out, it would for the first two or three years bring in pretty nearly the same revenue, and that in the end it would greatly increase it. He believed, however, that if the alteration resulted in a loss during the first year or two, it would be proper to put up with that loss, in consideration of the ultimate gain, as well as the immediate and continued advantage that would result to the public. The Government had not thought it necessary to bring the subject under the notice of the House, because they had regarded it as one that the Cabinet could very properly consider and determine upon for itself. It would, perhaps, be considered unnecessary to detain the House further on the question.

Mr. JONES remarked that, after the observations of the Chief Secretary, he would withdraw his motion. He would merely suggest that, when the proposed alteration was made, an arrangement should be come to for conveying messages for the press at a relatively lower price than the messages of the general public.

Mr. KERFERD offered a suggestion which, if acted upon, would, in his opinion, not only increase the revenue, but increase also the facilities of communication—namely, that the public should have the opportunity of posting a telegraphic message in the same manner as an ordinary letter; that the envelope should carry, stamped on it, the money necessary to pay for the message. This would be a great convenience in many places where there was no telegraph-office. He asked the Chief Secretary to consult the officers of the department with regard to this suggestion.

Mr. VALE thought the proposition of the honorable and learned member for the
Ovens a most valuable one; and said that, whilst the Government were considering the general question of reduction, it would be well for them to remember that it would be unfair to charge the same rate for messages to a short distance as for those to a long distance.

Captain MAC MAHON called attention to the enormous number of messages that were sent free of charge by the various departments of the public service, and urged that, for the future, a system should be introduced by which those departments should pay for their messages in the same way as the general public paid, and that a sum of money should be placed on the Estimates for that purpose.

The motion was withdrawn.

COMPENSATION TO GOVERNMENT CONTRACTORS.

Mr. WALSH moved—

"That this House will, on Tuesday next, resolve itself into a committee of the whole, to consider the memorial of certain Government contractors presented to this House on the 16th of June last."

The honorable member stated that the memorial in question was presented by certain Government contractors, who were prevented by the dead-lock from obtaining payment of their accounts. If the House consented to the motion, he would be able to lay before honorable members such a case as would justify them in favorably considering the claim.

Mr. G. PATON SMITH trusted that the House would not agree to the motion. The honorable member for East Melbourne ought to have given some particulars of the claim, and he hoped the forms of the House would not be allowed to interpose to prevent his stating the particulars, so that honorable members might know what they were asked to vote upon. He (Mr. G. P. Smith) was not aware that any contractor had been called upon to remain for so long a period as was mentioned in the petition without payment having been made. He asked honorable members to pause before affirming the principle that the House would go into committee to consider the claims of these persons without knowing not only what was the hardship complained of, but what were the names of the persons and the nature of their claims.

Mr. LANGTON thought that the fact of this question having been more than once before the House already was quite sufficient to justify the honorable member for East Melbourne in submitting his motion without comment on the present occasion. The names of the parties interested were pretty well known—they were those of people of repute and standing in the city. The revenue had been considerably swollen by the non-payment of these claims. All that the honorable member for East Melbourne asked was that the grievances to which the persons in question said they were subjected should be heard. He (Mr. Laughton) had always thought that it was one of the first functions of Parliament at least to consider such grievances; and, whatever might be the opinion of honorable members as to the merits of the claims, they should certainly be heard. It would be for the honorable member introducing the motion to make out a case.

Mr. BURTT said that the present was a case that ought certainly to have the consideration of the House. Contractors frequently put in their tenders at very low prices, and great inconvenience would result from delay in payment. Each claim should, however, be dealt with on its own individual merits. It should be remembered that the Government received interest on the money which remained unpaid, but was due to the contractors. Undoubtedly the contractors should have the advantage of that rather than the Government.

Mr. COHEN believed that some of the contractors were entitled to a small amount of compensation. The Government would give consideration to this matter, and the justice of each claim would be met on its merits.

Mr. KERFERD was very glad to receive that assurance. Whatever was the relative position of the persons interested, no other rule should prevail than that ordinarily observed between the contracting parties.

Mr. HUMFFRAY did not believe in any system which would encourage persons in bringing grievances before the House. It had been a nuisance for years, and if the Government gave an assurance that they would investigate the claims without the formality of a committee, that assurance ought to be sufficient.

The motion was agreed to.

DISCOVERERS OF GOLD-FIELDS.

The House having resolved itself into committee,
Mr. HANNA moved—

"That an address be presented to His Excellency the Governor, requesting that he will be pleased to cause to be placed on an Additional Estimate for 1869 the sum of £600 for the purpose of giving the discoverers of the Steiglitz and Stringer's Creek gold-fields the amounts recommended to be paid to them by a committee of this House."

Mr. MACPHERSON said that he did not know on what grounds the House abstained from carrying out the recommendations of the committee which reported in 1866. He thought that they were fair and reasonable. In his opinion, the House should now, in justice to itself, and with a proper sense of its own honour, endorse the recommendations of the committee and finally wipe out these semi-liabilities which, after all, only amounted to £600.

Mr. MACGREGOR pointed out that, in consequence of a claim having been raised by another person after the report of the committee had been forwarded, the matter was not immediately dealt with by Parliament, but was postponed. He believed the claim to be a perfectly fair and proper one, and that the committee would only be carrying out a legitimate purpose in assenting to it.

Mr. COHEN trusted that if this amount was voted it would be the last they would hear of discoverers of gold-fields. He would not vote against the present claim, seeing that it had been recommended by the committee for payment three years ago. On all future occasions he should oppose any such claims.

Mr. G. PATON SMITH hoped that the committee would consent to progress being reported. It was monstrous to take up the matter at this distance of time, the report of the committee having been received in June, 1866. At that time there was not the remotest chance of the report being carried in the House. He read the report when it was presented, and the sight of it now recalled to his recollection some of its leading features. He did not desire to use too strong a phrase, but he would say that some of the claims put forward were of the most impudent character. He moved that progress be reported.

Mr. J T. SMITH quite concurred with the honorable member for Rodney. The report had been considered in committee, and adopted, and if the claims referred to were as substantial as those that had been already paid he could see nothing but common justice in liquidating them.

Mr. BUTTERS said that any attempt to ridicule a just claim on the part of that House, merely because it happened to be three years old, was an absurd one, which he would not countenance. The claimants were entitled to consideration, and he should support the motion.

Mr. FRANCIS remarked that unless Parliament was disposed to be more than liberal, and inclined to go in for expensive prodigality, such claims as these ought not to be entertained.

The motion that progress be reported was negatived.

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

The House adjourned at twenty-seven minutes past ten o'clock, until Tuesday, November 16.

LEGISLATIVE COUNCIL.

Tuesday, November 16, 1869.

Compensation to Members of Parliament Bill—Mining Companies Bill (No. 2).

The President took the chair at eighteen minutes past four o'clock p.m., and read the prayer.

LAND SELECTIONS.

The Hon. C. J. JENNER, pursuant to order of the House (dated November 11), laid on the table papers connected with Mr. John Morphet's selection at Hadden, under the Land Act of 1865.

PETITION.

The Hon. R. C. HOPE presented a petition from the Shire Council of Bannockburn, praying that the Local Government Act Amendment Bill might be passed without delay.

COMPENSATION TO MEMBERS OF PARLIAMENT BILL.

The Hon. C. J. JENNER.—Mr. President, I rise for the purpose of moving the second reading of this Bill. No doubt honorable members of this House have no desire to receive compensation for their legislatorial services; but, when they recollect that the other branch of the Legislature have already passed a measure of this character no fewer than four times, and that the country has declared in favour of it, I think they should be prepared to give the principle a fair trial. Sir, this Bill proposes to give £300 per annum to
made him a convert to the payment of members, for he could not help thinking that, if Members of Parliament were remunerated, they would never be engaged in these transactions. It was impossible to assimilate the Assembly of this colony to the English Parliament, in which the representatives were, for the most part, men of enormous wealth and members of noble families, who thought a seat in the House of Commons the proudest position they could possibly occupy. A Member of Parliament had expenses to meet, and a certain position to maintain, and there could be no doubt that, with some of the members, it was sometimes a great struggle to maintain their position."

It may, no doubt, be very fairly said that these remarks do not apply to honorable members of this Chamber; but still, if honorable members of this House have enough means to enable them to feel a position of independence in relation to such a Bill as this, they should be careful, I think, of not acting on the dog-in-the-manger principle, and prevent honorable members of the other House receiving this compensation merely because they do not require it themselves. There are many ways in which the money may be most usefully and gracefully disposed of. The charitable institutions of the country afford an ample field for the exercise of generous instincts. Let it be remembered that, whilst there are some honorable members who are fortunately placed beyond the need of such aid, there are, on the other hand, those to whom it would be very acceptable. There have been no fewer than four Bills introduced and carried in another place affirming the principle of payment of members. The first of them was introduced by the late Dr. Evans, in 1861; the second by Mr. Harker, in 1865; the third by the late Mr. Kyte, in 1867; and the last and present measure, which was introduced by the late Ministry, has, up to its present point, been advanced by the Government I have the honour to represent. I now move that the Bill be read a second time.

The Hon. J. McCRAE seconded the motion.

The Hon. W. H. F. MITCHELL confessed that he was somewhat taken by surprise in finding the order of the day for the second reading of this Bill on the notice paper. He had been under the impression that an understanding was arrived at that the discussion should not be taken before the next or following day. He felt sure that this view was shared by several honorable members who were now absent from their places in
Consequence of that impression. As it was in the last degree desirable that a matter of so much importance should be discussed in a full House, he trusted the honorable member representing the Government would not object to the debate being postponed to, say, Thursday next.

Mr. JENNER said that he should have been very happy to meet the views of the last speaker, but that he had made a distinct promise to several honorable members—amongst them Mr. Strachan—that the second reading should not be taken later than to-day. He hoped Mr. Mitchell would not press his suggestion for a postponement.

The Hon. J. O'SHANASSY remarked that Mr. Strachan had left Melbourne, and that, before doing so, he had mentioned to him that he was specially anxious to be present at the second reading of the Bill. There was a constitutional change of a very grave character involved in the measure. It was proposed by it to legalize an expenditure of money which ought not to be assented to except in a full House. It would, he thought, be as well to refrain from taking the opinion of honorable members on the subject until a call of the House was made on the State aid question. He moved that the consideration of this question be postponed until a call of the House was made for the purpose.

Mr. McCRAE objected to important business of this character being postponed, merely to meet the convenience of honorable members who did not happen to be present. He opposed the amendment.

The Hon. R. SIMSON supported the amendment. He could not see why so much importance should be attached to the little delay asked for. Many more important questions had been delayed when the late Government were in office. He was altogether opposed to the principle sought to be introduced; and he believed that, if it were affirmed, it would have the effect of bringing into the other branch of the Legislature a class of persons who would simply make a trade of politics. He hoped the amendment would be carried.

The Hon. A. FRASER said that, to his mind, the reasons assigned for the postponement of the debate were altogether unsatisfactory. There was as large an attendance of honorable members as could reasonably be expected. There could be no ground for anticipating a larger one when the State aid to religion question came under consideration. Every honorable member must be fully acquainted with the nature of the Bill, and, in his opinion, it should be dealt with at once. He should vote against the amendment.

The Hon. W. ABECKETT remarked that the order of the day had been on the notice paper for something like a month, and it was quite time that the consideration of the question was proceeded with. He could see no necessity for further delay.

The Hon. W. HIGGITT said that he did not at the present moment desire to express his views on the subject of payment of members, but he thought the matter should be postponed for the reasons assigned by Mr. O'Shanassy. It would cost the country £30,000 a year to carry out the principle. It would be far better to spend the money in the construction of railways and other reproductive works, unless there was a certainty of inducing a better class of representatives to enter political life.

The Hon. W. CAMPBELL thought that no inconvenience would result from the adoption of the amendment, and expressed his intention of supporting it.

The Hon. T. T. A'BECCKETT said that no public injury could possibly result from the suggested postponement. He, therefore, intended cautiously to abstain from expressing his own opinions on the question. Fair warning should be given to honorable members of its being brought on for discussion, and he would be very sorry to see the debate proceed in the absence of honorable members who might entertain different views from his own.

The Hon. N. BLACK supported the postponement, because he was conscious that, during the discussion of so important a question, no honorable member would like to be absent from his place.

Mr. JENNER felt it his duty to oppose the amendment. No avoidable delay—at so advanced a period of a very protracted session—should be allowed to take place in proceeding with the business of the country. There were now no fewer than three honorable members absent on leave, and there was as full a House present as could be expected on any future occasion. The measure should be discussed at once, and be either passed or rejected.

The Hon. W. DEGRAVES spoke in support of the amendment. It was within his knowledge that two or three honorable members who were absent would feel great disappointment and surprise if a division
were come to on the question without an opportunity being afforded them of expressing their views upon it. The amendment was then agreed to.

Mr. O'SHANASSY intimated that, on the following day, he would move that a call of the House be made for the 1st of December to consider the question.

MINING COMPANIES BILL (No. 2).

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

The discussion on clause 3, relative to the forfeiture of mining leases (adjourned from November 11), was resumed.

The Hon. C. J. JENNER moved that the clause be amended so as to read as follows:

"Whenever by any notice, heretofore or hereafter to be inserted in the Government Gazette, signed or purporting to be signed by the Minister having for the time being the charge of the mining interests of the colony, or by the Secretary for Mines, any lease granted under either of the Acts of the Parliament of Victoria Nos. 32 or 148, or under the Mining Statute 1865, shall have been or shall be declared void or forfeited, such notice shall be, and shall be deemed to have been from the date of such publication, conclusive evidence that such lease was and was duly declared to be forfeited at the time mentioned in such notice, and that Her Majesty forthwith thereafter re-entered upon the said land in pursuance of the covenant or proviso for re-entry contained in the said lease, and the land comprised in any lease so declared void shall be deemed to have been, from the date of the publication of the Gazette containing such notice, vacant and unoccupied Crown land, capable of being taken possession of and occupied for mining purposes within the meaning of the Mining Statute 1865; and any person who, after such insertion, shall remain or be in the possession or occupation of the lands comprised in such lease or any part of them, under colour of such lease, shall be, and shall be deemed to be, in the unauthorized occupation of Crown lands, and may be proceeded against accordingly."

The real object of the clause was to make valid forfeitures of mining leases directly they had been gazetted.

The Hon. J. O'SHANASSY observed that there was an entirely new element sought to be introduced into the Bill by this clause, namely, the condition that a mere notice in the Government Gazette should be an absolute forfeiture. Now that this extraordinary power should be exercised by the Minister of Mines or the Secretary of Mines was what he felt sure could never be seriously contemplated. The whole question of the continued and increased production of gold by means of the investment of capital was opened up in this proposition, which was certainly not one calculated to encourage such investment. It had been pointed out to him, since the Bill was last before the committee, that gross injustice would be done if this clause was passed, for the reason that it would have the effect of practically setting aside the contract deliberately entered into between the parties, and substituting terms that were never originally contemplated, and under which a mere Gazette notice would be sufficient to make forfeiture legal. So strongly did he feel this injustice, that he would rather the mining law remained unaltered than that the principle should be introduced into it which this declaratory clause embodied. He was anxious that opportunity should be afforded to every honorable member of expressing his views on the question, but if it was pressed now, he would have no alternative but to pursue the course he had indicated.

The Hon. T. T. A'BECKETT said that if ever there was a matter that was attempted to be made the subject of hasty legislation, it was this. He had been very anxious to get at the merits of the Bill, and would have been glad if Mr. Jenner had explained more fully the necessity that existed for the alterations he proposed. It had been said that telegrams had been received from Ballarat and Sandhurst, expressive of the favorable views entertained by the mining boards on the question of these alterations; but for aught he knew there might be very different opinions held elsewhere. There could be no doubt that the Bill was retrospective in its operation, and every step connected with it should be watched with the greatest jealousy by the House. In his opinion it was almost impossible to imagine that the proposed clause would pass in another place, because it practically amounted to saying that a person should not be heard in his own defense. Now that was a proposition of so monstrous a character that he was sure it could never be assented to. It was actually proposed that, without proof of the failure of any of the conditions imposed, it should be lawful to forfeit and render void a lease, by mere Gazette notice. He concurred in the objections expressed by Mr. O'Shanassy, and, rather than vote for such a clause unaltered, he would prefer its being expunged from the Bill.

The CHAIRMAN reminded honorable members that there was no question before the committee.
Mr. O'SHANASSY moved that the clause be struck out.

Mr. JENNBER thought it would be better that progress be reported, so that he might have an opportunity of consulting his colleagues on the question, before the committee again sat.

The motion of Mr. O'Shanasssy was withdrawn, and progress was reported.

The House adjourned at twenty minutes to six o'clock.

LEGISLATIVE ASSEMBLY.

Tuesday, November 16, 1869.


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

PETITIONS.

A petition was presented by Mr. LONGMORE, from the Star of Australia Felix Tent, of the Independent Order of Rechabites, in favour of the Wines, Beer, and Spirits Sale Statute Amendment Bill; and a petition was presented by Mr. COHEN, from certain hotel-keepers and other citizens in Melbourne, praying that certain amendments might be made in the same Bill.

ADMINISTRATION OF THE LANDS DEPARTMENT.

COMMITTEE'S REPORT.

Mr. McKEAN, as temporary chairman of the committee (see page 1469) appointed “to inquire into and report upon the action of the Lands department in connexion with certain allegations of undue influence by Members of Parliament with the business of that department,” brought up a report from the committee.

The report was ordered to lie on the table, and to be printed.

Mr. McLELLAN moved that the report be read.

Mr. BURTT submitted that the reading of the report ought to be postponed until the House was prepared to take it into consideration, and the honorable members who were understood to be affected by it could be heard in their defence. To read the report now, and thereby give circulation to it, was unfair, and calculated to prejudice those honorable members.

Mr. LAJOR pointed out that the report would be circulated whether it was read or not.

The motion was then agreed to.

The CLERK read the report. It stated that the committee had examined into two of the cases referred to them, one involving a complaint by Mr. Peter Mills against Mr. Stutt, a member of the House, and the other comprising certain charges against Mr. Miller, another member of the House. The committee concluded a lengthy report on Mr. Stutt's case with the following paragraph:

"In this train of circumstances, in the continuous intermeddling of Mr. Stutt in a case with which he had no legitimate connexion, in his relation to the accused, in hisuperfluous inducement to Mills to withdraw his statutory declaration, in the conversations concerning the £100, in the proposed prosecution of Mills for perjury, in Mr. Stutt's presentation of Mills' letter, written at the City Buffet, after authority to present it had been refused, and in the immediate sale of the land after its presentation, to a man who was not a bonâ fide selector, your committee cannot hesitate to recognise a distinct case of undue influence of a Member of Parliament in the administration of the Lands department."

The report on Mr. Miller's case wound up in the following terms:

"Your committee, after carefully weighing and considering the voluminous evidence taken in this case, are of opinion—

"1st. That the honorable member has successfully evaded the provisions of the Land Act; an offence which a gentleman filling the honorable position of a Member of Parliament could not have been committed without being fully aware of the wrong he was doing in bringing the law into contempt.

"2nd. That the honorable member has used undue influence in connexion with the business of the Lands department, for the purpose of furthering his own interest and that of his friends; that he has by this means acquired large tracts of the public lands, and prevented other persons from securing the benefits they were entitled to under the Land Act.

"3rd. That the reduction of the value of the improvements on the land claimed by Donald Stewart from £291 to £25 8s., was an extraordinary and unjustifiable proceeding on the part of the Lands department, and was owing to the influence used by the honorable member.

"4th. That the cutting up of the wood reserve at Woordoo, in opposition to the wish of the inhabitants, was in consequence of undue influence brought by the honorable member to bear on the Lands department.

"5th. That the offer to sell land at Woordoo to Mr. Moffatt, made by Messrs. Randall, Mitchell, and Doward, as agents for the honorable member, was in violation of the law, and done with a guilty knowledge, both by the honorable member, who is a magistrate, and his agents, who are solicitors.
"6th. That your committee desire to mark with special censure the conduct of the honorable member in first inducing McRae to enter into an arrangement to violate the law, and then using his knowledge of this fact to cause the land in question to be forfeited in the interest of his brother-in-law, Mr. Clarke."

The committee added—

"Important statements and documents in reference to other members of the Assembly, and tending to illustrate the actual working of the Land Act of 1865, have been made to your committee, but there has not been time to investigate them, and the period of the session forbids the completion of these inquiries at present. Under these circumstances your committee strongly recommend that the further prosecution of the inquiry be immediately intrusted to a royal commission, with power to examine witnesses on oath."

After the report had been read, Mr. G. PATON SMITH rose and asked the Minister of Lands when he proposed that the report should be considered by the House?

Mr. McKEAN.—Mr. Speaker, honorable members will no doubt recollect that I was appointed a member of the committee after it had finished taking evidence, and whilst the draft report was under consideration. At the first meeting of the committee which I attended the draft report was considered, and, if my memory serves me rightly, the honorable and learned member for the Ovens was in the chair on that occasion. When a discussion arose on some clause of the report I declined to vote, for the simple reason that I had neither had an opportunity of perusing the evidence—I had not even been furnished with a copy of it—nor had I an opportunity of hearing any of the evidence. On the second occasion on which I attended the committee it was suggested that I ought to occupy the chair, as I had taken no part in the investigation, and therefore occupied a neutral position; and I was in the chair at the third meeting I attended, when the report was finally adopted. I apprehend that, under these circumstances, the House cannot expect me, as merely the temporary chairman, to take upon myself the functions and duties of a chairman appointed by a committee in the usual way. There is no doubt that, according to the 167th standing order, it is the duty of the chairman of the committee to draw up the report. It seems to me that, in this instance, the committee have followed the practice which was adopted in a previous case. They have taken the preparation of the report out of the hands of the chairman, or he has allowed it to drop out of his hands. At all events, the report that was drawn up was adopted by the committee; and, as chairman on the occasion when it was adopted, it was my duty to bring up the report. But I submit that the House cannot ask me to take charge of, and sustain a report, in the framing of which I had no part. I apprehend that it will be for the chairman (Mr. Lalor) who was properly appointed by the committee to take charge of the report, or, in the event of his declining to do so, the duty will devolve upon the honorable and learned member for South Bourke, who displayed an active part in the inquiry. I would willingly take charge of the report if I were in a position to do so, but, considering the duties I have to perform, I cannot sit down quietly and analyze such a mass of evidence, in order to bring the matter before the House in such a way as a report affecting the character of two honorable members requires to be submitted to the House. If I had the time at my disposal, and no other member was willing to do so, I would take charge of the report; but I think it would not be acting justly to the two honorable members whose names are associated with the report were I to take upon myself a duty which I could not efficiently perform, from want of time.

Mr. G. PATON SMITH.—In order that I may be in order I will move the adjournment of the House. It is no answer for the Minister of Lands to say that, from want of time, he is not in a position to deal with the report. If the honorable member is unacquainted with the contents of the report, he might have declined the duty of appending his name to it as chairman of the committee.

An HONORABLE MEMBER.—The report is not signed by the Minister of Lands as chairman of the committee.

Mr. G. PATON SMITH.—At all events the report has been read. The House is now seized of a document which, as the Minister of Lands states, affects the character of two honorable members of the House. I desire to know what course the Government intend to adopt with regard to it? There are two members of the Government who have been members of the committee, and have taken an active part in the inquiry. It is absurd to suggest that I should take charge of a report which I did not frame, when in all questions affecting the honour and character of members of the House, there is a clear duty imposed upon the
Chief Secretary, as the head of the Government, to bring the matter under the notice of the House. It is incumbent upon the Government to take charge of this report, and to announce when it will be discussed, in order that the session may not close without a document which so gravely reflects upon two honorable members being dealt with, and in such a way as will vindicate the honour and probity of the House. I beg to ask the head of the Government when the Ministry propose to deal with the report?

Mr. DUFFY.—I must confess my disappointment at the tone adopted by the Minister of Lands. Certainly nothing can be plainer than that, if this report is to be carried any further, some member of the Government must take charge of it. It is quite true, as the honorable gentleman stated, that he came into the committee late, and that he was not present when the evidence was given; but it is competent for him to read the evidence. If he desires to excuse himself from that task I would remind the House that he became a member of the committee to supply the place of the Chief Secretary, and that another member of the Government—the Minister of Railways—took an active part in the inquiry from the first sitting of the committee to the last. For my part, I am not prepared to be required to attend a committee day after day, and week after week, and in the end to have the report shuffled aside. We entered upon an inquiry as grave as ever was referred to a committee, and the results of the inquiry are now before the House. The Government, as the select committee instructed to administer the affairs of the House, and the Chief Secretary, as the leader of the House, are distinctly and unequivocally responsible for submitting this report to the House unless they dissent from it. If they say that the report is one which they consider improper, of course they may relieve themselves from any action upon it. But one member of the Government (the Chief Secretary) having taken part in the proceedings of the committee till he assumed office; another (the Minister of Railways) having taken an active part throughout; and another (the Minister of Lands) having been appointed a member of the committee in the place of the Chief Secretary, the Government are in complete possession of the matter, and can pronounce upon the report pro or con. As it affects the character of members of the House, they are bound to do so. I am not prepared to assent in any shape to have it shuffled aside. The committee gave the matter the most anxious care—they performed a painful duty in the most conscientious way—and the House, I have no doubt, will be prepared to enter into a consideration of the report if those who are bound by their position to submit it to the House take the proper measures for that purpose. I entirely agree with the honorable and learned member who last addressed the House, that one or other of three members of the Government who were on the committee is bound to tell the House when the Government will invite it to consider the report, and who will take charge of it on behalf of the Government.

Mr. MACPHERSON.—It is satisfactory to find that the honorable and learned member for South Bourke and the honorable and learned member for Dalhousie agree, although the point on which they agree is, to my mind, rather strange. They asserted, in the first instance, that it was the duty of the Chief Secretary, as leader of the House, to take charge of this report; and next, that it was either his duty or the duty of one of two other members of the Ministry. I might enlarge upon that, and say that it is the duty of any other member of the House. If the duty devolves upon the Chief Secretary as leader of the House, it devolves upon him alone, and cannot devolve upon either him or one or other of two of his colleagues. If it devolves upon either of my colleagues, it devolves equally upon any other member of the House.

Mr. G. PATON SMITH.—It devolves upon the Chief Secretary, as the head of the Government.

Mr. MACPHERSON.—I can understand that argument; but the statement was that the duty of taking charge of the report devolved either upon me, upon the Minister of Lands, or upon the Minister of Railways. That is a position which I cannot understand. As the head of the Government I shall be perfectly prepared to take every and any responsibility which may devolve upon me; but I shall have to satisfy my own mind, in the first instance, that such responsibility has devolved upon me. The report submitted this evening I had not seen before, and I do not even now know the purport of it. It is too serious a matter for me to undertake charge of a report before I
exactly understand what the purport of it is, and what I can ask the House to do with the report, if that duty devolves upon me. I know, perfectly well, the duties which devolve upon the members of a select committee, and upon the chairman of the committee. It is the duty of the chairman to bring up the report of the committee, and upon that report to found some resolution. If the House accepts the resolution, and if it in any way reflects upon any member of the House, it is then the duty of the Chief Secretary to take action, by moving that the member in question be reprimanded, expelled, or dealt with in some other way. But to impose upon the Chief Secretary a duty in connexion with a committee of which he is not a member, is something novel in the mode of procedure with regard to the privileges of the House. I am perfectly prepared to take the responsibility when it devolves upon me, but I am not prepared to step in and take the responsibility devolving upon some other person in the first instance.

Mr. FRANCIS.—I think that, during the time the materials upon which the report is founded were collected, the Chief Secretary was a member of the committee. He certainly had more to do with the report and the ingredients from which it was prepared than the Minister of Lands. He ought not to evade his special duty as the leader of the House, which is to maintain the purity of the House. It is his duty to indicate what action the House should take in regard to this report; but I think that he is justified in demanding time to consider the course which he should adopt. I feel satisfied that the result of his consideration will be, that he will see that the report affects the reputation, position, and parliamentary status and character of certain members of the House, and that it is his duty to preserve the integrity of the House. I trust that he will not shelter himself under the plea that he is not a member of the committee, but that he will name a day when it will be convenient for him to give a definite answer as to the course which he will pursue.

Mr. MACREGOR.—I certainly do not concur in the opinion expressed by the honorable member who has just addressed the House. A reference to the course adopted in other cases of a similar character will not justify the conclusion at which the honorable member has arrived. When the first committee was appointed to inquire into charges of corrupt practices in which certain members of the House were implicated, the honorable and learned member for South Bourke (the then Attorney-General), brought up the report, and submitted to the House certain resolutions founded upon it. The Chief Secretary was not called upon to take any step whatever until a resolution was passed by the House directly incriminating certain persons. It was then the Chief Secretary's duty to vindicate the privileges of the House, by proposing that what he conceived to be adequate punishment should be inflicted on the offenders. It appears to me that, in the present case, it is the duty of the chairman of the committee, by virtue of his office, to submit some resolution in reference to the report. If the resolution incriminates any individual, and it is accepted by the House, it will then be the duty of the Chief Secretary, as the leader of the House, to move such further resolutions in regard to the persons affected by the decision of the House as he may think proper.

Mr. LALOR.—If any member of the Government or of the House is bound, individually, to take any action on the report, it is the honorable member who at present occupies the position of Minister of Railways. It was he who brought forward the charges which the committee was appointed to investigate, and he should have been the chairman of the committee, but, in consequence of certain objections raised in the committee itself, to the honorable member presiding, I reluctantly consented to act as chairman. From that hour to this, I have been to a certain extent recognised as the chairman of the committee; but I need not inform experienced members of the House that it is the duty of the member who moves for a committee to act as chairman of the committee, because he is supposed, and very properly so, to be much more cognizant of the charges to be investigated than any other member can be.

Mr. McKEAN.—The honorable member for Avoca (Mr. Grant) moved the appointment of the committee.

Mr. LALOR.—The honorable member for the Avoca adopted the motion, just as the Minister of Lands has accepted the office of a member of the committee and brought up the report, without any knowledge of the facts of the case. Why did the honorable gentleman assume that
responsibility without any knowledge of the evidence? If he is ignorant of the facts, is he, with perfect impunity, to bring up a report affecting two honorable members whose characters are just as good as his own? I say that the gentleman who proposed the appointment of the committee—the Minister of Railways—should have brought up the report. Why does he not accept the responsibility of founding some motion upon it? What are the facts? Reports of two separate cases have been presented, and the task of preparing them was specially handed over by the committee to the honorable and learned member for Dalhousie and the honorable and learned member for the Ovens. Why don't those gentlemen, as the deputies of the Minister of Railways, take some action in the matter? Why does not some one assume the responsibility?

Mr. McKEAN.—Why does the chairman not do so?

Mr. LALOR.—Because I accepted the position of chairman reluctantly, under peculiar circumstances, when the honorable member who proposed the appointment of the committee declined to take the office; and I did not draw up the report. I say that the committee shirked their duty. It was absurd to hunt up trivial affairs in the Lands-office in the face of the transactions which have occurred in this House during the last twelve months. Why did not the Minister of Railways bring up a report and move a resolution upon it? What is the reason? Does he say that he is ignorant of the evidence? He was present at almost every meeting of the committee, and frequently when I was not there. Perhaps no member of the committee was so often absent as I was, owing to my having to look after my private affairs. Why does not the Minister of Lands, who has appealed to me, take charge of the report? I was only the nominal chairman. I scarcely ever attended the committee. I was present only three or four times. Then why should I bear the responsibility of the report, and particularly when I differ from the report from beginning to end?

Mr. DYTE.—I think the House ought to know what is going to be done with the report. It is always customary for the report of a select committee to be brought up by the chairman or acting-chairman of that committee. The present report has been brought up by the honorable gentleman who happened to fill the chair when the report was agreed upon. It is also customary, when a report is brought up, for the gentleman who brings up that report to give notice that, on a future day, he will move that the report be taken into consideration. That is all that is asked on this occasion. It surely cannot be expected that the honorable member for Creswick (Mr. Miller) or the honorable member for South Grant (Mr. Stutt) can move in the matter, because the report affects them. But, seeing that the session is drawing to a close, I say it is only fair that an opportunity should be furnished to those gentlemen of protecting their character. They should be allowed to appear in their places to answer the report, which, I must say, seems more like a recapitulation of the evidence than the reports usually submitted by a select committee. I would appeal to the Minister of Lands, as he has assumed the position of chairman of the committee, whether it does not become him to move that the report be taken into consideration on a night to be fixed? If the Minister of Lands won't do this, I think the Minister of Railways should do it. I may perhaps be permitted to add that, if the chairman of the committee fails in his duty, it devolves, I think, upon the Chief Secretary, who was for some time a member of the committee, and who heard the whole of the evidence affecting the honorable members for Creswick and South Grant, to place himself in the position of chairman of the committee, and move that the report be taken into consideration. The honorable gentleman may not agree in the report to its fullest extent; but I think he should give some notice of motion in connexion with the report, either confirmatory of it or otherwise. I consider it only justice to the two honorable gentlemen to whom the report refers, that a day should be named for taking the document into consideration.

Mr. LALOR.—In explanation, I may perhaps be permitted to say that, if the chairman of the committee fails in his duty, it devolves, I think, upon the Chief Secretary, who was for some time a member of the committee, and who heard the whole of the evidence affecting the honorable members for Creswick and South Grant, to place himself in the position of chairman of the committee, and move that the report be taken into consideration. The honorable gentleman may not agree in the report to its fullest extent; but I think he should give some notice of motion in connexion with the report, either confirmatory of it or otherwise. I consider it only justice to the two honorable gentlemen to whom the report refers, that a day should be named for taking the document into consideration.
hands, I considered that I was not bound to bring up the report.

Mr. McKean.—Under the peculiar circumstances in which the House is placed with reference to this report, I have not the slightest objection to give notice that the report be taken into consideration this day week. My reason for not doing this in the first instance was simply that I thought that, under the circumstances, no such duty attached to me. I still think that no such duty attaches to me; but, as an individual member of the committee, I am quite prepared to move the consideration of the report, and, if necessary, to propose such further resolution as I may deem advisable after I have had the opportunity of perusing the evidence.

Mr. FRAZER.—I beg to call the attention of the House to the fact that the standing orders direct that “the report of a committee shall be brought up by the chairman.” But it seems that the chairman of this committee was not allowed to bring up the report. Members of the committee prepared a report without asking the chairman to prepare any report at all; and that report was adopted at a meeting at which the Minister of Lands, in his vanity, occupied the chair. The Minister of Lands now gives notice that, this day week, he will move that the report be taken into consideration—a report which he admits he knows nothing of. Now is not that trifling with the House? I say it is a direct insult to the House. What right has any honorable member to propose the consideration of a report that he knows nothing whatever of? I venture to say that a number of honorable members whose characters are under the consideration of this committee, in his vanity, occupied the chair. The Minister of Lands takes any action with reference to the report, the Government must bear the responsibility. But if the Government refuse to make this a Government measure, it will be for the honorable and learned members for Dalhousie and the Ovens to assume the responsibility of the report. Otherwise I cannot see how the House is really to deal with the report. Don’t let us have an honorable member saying that, in consideration for the feelings of certain members, he will take up the report, although he does not believe it, and never saw the evidence. An honorable member who takes upon himself to act in such a matter must make himself personally responsible for the report, and be responsible for whatever decision the House may come to in regard to it.

Mr. McLELLAN.—As the member who moved that the report be read, I repudiate altogether the idea of unfairness and unmanliness in doing so. I am aware that when a document is laid on the table it becomes a public document, and, as such, I knew it would appear in the newspapers of this city to-morrow morning; and I moved that the document be read, in order that I might know its contents, and be able to judge of what the committee had done. I don’t think it is fair of the honorable member for Creswick (Mr. Frazer) to accuse me of having any motive whatever against the gentlemen concerned. I do not entertain any. Indeed I keep my hands clear, at all times, from any such interference with members of this Assembly. I am sure that, in moving the report be read, I have not given the slightest advantage to the press. The
press have the means of obtaining copies of documents like this report. Honorable members are not possessed of. Why, is it not a fact that the substance of this report has been for weeks published in the various newspapers throughout the colony?

Mr. BURTT.—It must be well known to honorable members that many reports are presented to the House which are not allowed to go to the world. Unless a document laid on the table is ordered to be printed, it is a breach of privilege for it to be handed to the press for publication.

Mr. McLELLAN.—I beg to ask the Speaker whether it is wrong for the press to be in possession of papers which are laid on the table?

The SPEAKER.—When papers presented to the House are ordered to lie on the table and to be printed, they are then open for publication.

Mr. FRAZER.—But if the order had not been made that the report be printed, would it have been in order for the press to obtain copies of the document?

The SPEAKER.—No.

Mr. McLELLAN.—I did not move that the report be printed.

The motion for the adjournment of the House was then put and negatived.

FINE ARTS COMMISSION.

Mr. BLAIR asked the Chief Secretary whether the functions of the Fine Arts Commission had been transferred to the trustees of the Public Library?

Mr. MACPHERSON stated that no such transfer had been made.

PORTLAND IMPROVEMENTS.

Mr. BUTTERS inquired of the Chief Secretary whether he was prepared to carry out the promise of his predecessor in office relative to sending prison labour to Portland; whether, in the event of its being satisfactorily shown to him that the railway line already partly formed from Portland to Hamilton, at a cost of about £30,000, could be completed by prison labour, and at very little cost to the State, he would place a sufficient number of prisoners at the disposal of the governor of the gaol at Portland to carry out the work; and whether he would cause to be forwarded a sufficient quantity of the surplus and otherwise useless plant, now lying in the Government sheds, to finish the sixteen miles of line already formed, and, with a little repair, ready for its reception? He submitted this series of questions with a desire to prevent an enormous amount of the trade of the Western district being diverted to South Australia, which colony was making great efforts to secure it, and also to utilize the sixteen miles of railway from Portland in the direction of Hamilton, which had been lying idle for six or seven years. He had been in communication with the governor of the gaol at Portland, who was prepared to undertake the responsibility of executing the work with short-sentence men at an expense not exceeding one-half what those men at present cost the State, which was at the rate of £75 per annum. It was almost unnecessary to state that an enormous quantity of railway plant at present of no use would be very suitable for railways or tramways in the Western district. If that plant could be sent to Portland, at the mere cost of carriage, it could be utilized in opening communication with the interior. He submitted that the matter was one which any Government ought to undertake, quite irrespective of the many promises made within the last few years to have the work carried out.

Mr. MACPHERSON said there was in his department the record of a promise to send some men to Portland to ascertain whether there was any stone in the locality suitable for the breakwater. He believed that course was rendered unnecessary by the governor of the gaol being able to test the matter and to find suitable stone. At all events, the late Chief Secretary took no further steps, and made no further promise. With regard to the completion of a railway between Portland and Hamilton, before making any statement on that head it was necessary he should know that some advantage would accrue to the country from the undertaking. He was aware that, several years ago, some miles of railway were made from Portland into a forest, and that there the line ended. If it could be shown that, at a small cost, the railway could be carried out so as to convenience a reasonable number of the public, and to produce a return say of five per cent. on the outlay, the attention of the Government might reasonably be called to the matter. He did not know what quantity of surplus railway plant was lying in the Government sheds, because the matter was not in his department; but, in the event of the Government entertaining the
prophecy laid down by the honorable member for Portland, he presumed there would be no objection to making use of the surplus railway plant for the purpose indicated.

COMPENSATION TO CIVIL SERVANTS.

Mr. WHITEMAN called the attention of the Chief Secretary to the fact that a large number of civil servants had been reduced in class without receiving the compensation promised by the late Government, and to some exceptions which had been made; and asked if the Government intended to comply with such promise generally? The honorable member observed that there was wide-spread dissatisfaction among the civil servants who had been promised compensation for reduction or loss of office, and the sore had been increased by the fact that a few who had been reduced in class had received their compensation. On the 14th June last, the late Chief Secretary stated that those civil servants who had been reduced in class would receive compensation according to the reductions. The other evening, however, the honorable gentleman intimated that no civil servants had been reduced in class. He (Mr. Whiteham) could point to an instance which was patent to everyone. The late Superintendent of Electric Telegraphs (Mr. McGowan) had been reduced in class, and had received compensation according to the amount of the reduction. A civil servant in the Railway department, who was not classified, had also received compensation for a reduction. And yet there were several officers in the Telegraph department who had been reduced in class, and men connected with the local military staff whose salaries had been reduced from £200 to £130, who had received no compensation. The thing had become a crying evil; and he considered it desirable that the Government should proceed to fulfill the promises made by their predecessors.

Mr. MACPHERSON observed that the case of Mr. McGowan was not a reduction, but the abolition of one office and the creation of another. That was the only case he could find in which any compensation had been granted. He could find in the department no record of a promise of the kind mentioned by the honorable member for Emerald Hill. At the same time the Government were prepared to consider the matter on its merits.

STAMPS BILL.

On the motion of Mr. MCDONNELL, this Bill was read a third time and passed.

UPPER MURRAY RAILWAY.

The House went into committee for the purpose of considering the following estimate of expenditure proposed to be incurred under the Railway Loan Act 1868:

Salaries, Wages, and Contingencies for 1869:—

Further amount required for sinking trial shafts, salaries, wages of chainmen, labourers, and others, completing survey of Northeastern Railway, and other works, including stores, travelling expenses, and general assistance (in addition to £6,600 already appropriated) ... ... ... £3,000

Mr. LONGMORE moved that the estimate be agreed to. He explained that, in consequence of certain deviations which had been determined upon, the expenditure of £6,600, authorized last year, was not sufficient to complete the permanent survey of the railway from Essendon to the Upper Murray. Some trial shafts had to be sunk at the Goulburn and other places, where heavy bridges would be erected, and therefore it was necessary that an additional £3,000 should be voted for that purpose.

The motion was put and carried.

The committee then proceeded to consider the following statement of expenditure for works:—

Statement of proposed expenditure for the ensuing twelve months under the provisions of the Railway Loan Act 32 Vict., 331, prepared in accordance with the requirements of section 13 of the Act:

- Purchase of land, clearing and fencing, level crossings, earthworks, bridges, culverts, &c. ... £180,000
- Road across Wodonga-flat ... ... 10,000

£190,000

Mr. LONGMORE, in moving the adoption of the estimate, said he believed that the existing railways of Victoria had cost about £35,000 per mile, an expenditure for which a parallel could not be found in the southern hemisphere. The railways of New South Wales had cost £10,500 per mile, and those of Queensland £8,000 per mile. The latter were, in many places, difficult of formation, but the cost of the lines which ran through country of no peculiar difficulty was
Many railway companies in the old country, the traffic on whose lines was very heavy—in one instance six times as heavy as the traffic on the Victorian lines—were now laying down light rails. The adoption of a 65lb. rail instead of a 72lb. one would make a difference of about £40,000 in the cost of the construction of the North-eastern Railway. Whether it would be advisable to make the line with a lighter rail than 72lb. he did not know; but the weight of the rails to be used, the size of the engines and rolling-stock, and all similar matters, would be referred to competent engineers at home, whose advice would be acted upon. His own impression was that the current of public opinion was setting in in favour of a light rail, and he believed that a light rail would be found to be the more permanent. The principle object which the Government would have in view in the construction of the North-eastern line would be to make the permanent way good, so that as little expenditure as possible would be required to keep it in repair. As to the ballasting of the line, he might state that it was the intention of the Government to make the ballast as good and secure as possible. The red-gum sleepers which were being used on the railways at present were much more secure, and would bear the traffic a great deal better, than the sleepers formerly used. Cut 9 feet long, 5 inches deep, and 9 inches wide, they would be found to be exceedingly serviceable. The Government would endeavour so to construct the works as not to waste any of the public money in ornament. The culverts and bridges would be made of a good and substantial character, and as much money as possible would be saved by erecting temporary stations in the first instance, to be replaced at a future period by more substantial structures where the traffic required them. He might mention that £292,000 had been sent home for rails, but would not be expended until the opinion of competent engineers was obtained, as to the weight the rails should be. The sum now asked for was £180,000, exclusive of £10,000 for making a road across Wodonga-flat to the Murray. The cost of a road across Wodonga-flat was omitted from the estimate of the Engineer-in-Chief, but to make a railway to Wodonga without making a road from that place to the Murray would be nonsense. If the railway was to catch traffic from across the Murray, it was absolutely necessary to

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make a road across the flat, so as to connect the line by a bridge with the other side of the Murray. There was about one mile and a half on which the works would be of a somewhat expensive character. It was hoped that a large traffic in wool and sheep would be obtained from the other side of the Murray. A great deal of agricultural settlement had taken place on the other side of the river, from which considerable traffic might also be expected. To carry the railway to Wodonga, and not make a road thence to the Murray would, he repeated, be an absurdity; and he had therefore directed that £10,000 for making the road should be included in the estimates.

Mr. KERFERD asked whether any communication with respect to the rails was sent to England by the last mail?

Mr. LONGMORE replied that no communication was sent by the last mail, but the sum of £292,000 would be available, in England, at the earliest possible opportunity, for the purchase of rails.

Mr., G. Y. SMITH inquired if the weight of the rails had been determined?

Mr. LONGMORE intimated that it would be settled by engineers at home, and that a communication would be forwarded to England on the subject by the next mail.

On the motion of Mr. JONES, progress was reported.

THE IMPERIAL GOVERNMENT AND THE COLONIES.

FOURTH NIGHT'S DEBATE.

The debate on Mr. Higinbotham's resolutions (see p. 2123) on the subject of the relations between the Imperial Government and the colonies (adjourned from November 10) was resumed.

Mr. MACGREGOR.—Mr. Speaker, I feel—and I believe that a large number of members feel—considerable embarrassment in consequence of the way in which the resolutions have been proposed. From the manner in which they have been submitted, the House is bound either to accept them as a whole or to reject them. When resolutions of this kind are debated with the Speaker in the chair, of course amendments are practically out of the question. No doubt amendments may, to a certain extent, be proposed, but, as no honorable member can speak more than once on any amendment, the power to amend is very limited indeed. Considering that the resolutions contain what may be regarded as a manifesto in reference to the relations of this colony with the mother country, I think that we should have the same opportunity for mature consideration as we should have if a Bill were before us. The most insignificant Bill goes through various stages before it is passed, and has to be considered in committee, when every member has the fullest opportunity of proposing such amendments as he may think proper. Although I, as well as probably a large majority of the members of the House, am in favour, substantially, of the resolutions submitted by the honorable and learned member for Brighton, I do not wish to bind myself to them altogether. I should like to have the opportunity, with other members, of suggesting what appear to me to be improvements, or means whereby the object of the honorable and learned member may perhaps be carried out more fully. There can be no doubt that the House is under an obligation to the honorable and learned member for bringing before its attention, for the first time, a proposal partaking largely of an international character; and it behoves honorable members to give the subject careful and mature consideration. The questions raised by the resolutions appear to me to resolve themselves into these. First, what was intended to be conferred on the colony of Victoria when the Constitution Act was passed—was it meant to confer upon us responsible government in the true sense of the term? The next question is—Was responsible government in point of fact granted? And, next—Is the existence of such a form of government recognised by the home authorities? Further, we have to consider our present relations with the mother country. First, as to the intention. If it was the intention of the Imperial Parliament to grant us responsible government, then, even if that is not really carried out in the shape of legal enactments, it appears to me that we are in equity entitled to have a constitution embodying responsible government. Moreover, I believe that if it can be shown to the home authorities that there has been a failure in carrying out the original intention, they will endeavour to obtain the co-operation of the Imperial Parliament in sanctioning such amendments as may be necessary to carry out that intention. I do not suppose for a moment that there will be any desire on
their part to act differently from the way in which a court of equity would act in endeavouring to give effect to a contract entered into between two parties. I may, perhaps, trespass unnecessarily upon the attention of the House by referring to documentary evidence as to the nature of the Constitution conferred on the colony; but as these documents constitute the charter of our rights, I do not think that it is a loss of time, when such questions as the present are raised, to search the evidence, with the view of silencing all gain-sayers as to whether we are in possession of responsible government or not. Honorable members will recollect that, when Victoria was separated from New South Wales, there were certain modifications made in the Constitutions of the colonies, although responsible government was not then conferred. The colonies, however—especially New South Wales—were not satisfied; and, at the instance of Mr. Wentworth, one of the ablest men in that colony, a petition to the Imperial Government was adopted by the New South Wales Legislature, setting forth the grievances under which the colony laboured in the absence of what it deemed to be its legal rights. That document received a fitting response, and the demand for responsible government was conceded. The Imperial Government, of course, offered to make the same concession to Victoria and the other Australian colonies as they granted to New South Wales. The despatch, written by Sir J. S. Pakington, the then Secretary of State for the Colonies, to the Governor of New South Wales, and the governors of the other Australian colonies, in reply to the petition, sets forth in the most distinct and positive manner what the intention of the Imperial Government is. It says—“And with the evidence thus before them, they,” that is, the Imperial Government, “cannot but feel that, while it has become more urgently necessary than heretofore to place full powers of self-government in the hands of a people thus advanced in wealth and prosperity, that people have, on the other hand, given signal evidence of their fitness to regulate their own affairs, especially under legislative institutions, amended in the manner which the Council itself has pointed out in the concluding part of this petition.”

The same feeling is evinced in a despatch from the Duke of Newcastle. The idea which seems to have perverted the minds of English statesmen at that time is that the removal of restrictions in the relations between the old country and these colonies would promote the harmony of those relations. The people of Victoria immediately set about to frame a Constitution for this colony. Under what impression did they receive the invitation to accept responsible government? Did they accept it as a sham, or as a reality? They certainly accepted it as a reality. If we refer to the report of the committee of the old Legislative Council appointed to deal with the question, we see the spirit in which the invitation to frame a Constitution was accepted by the Legislature and people of this colony. The report says—

“To the Legislature, composed of the Crown represented by the Governor, and of these Houses, respectively possessing the powers of the Lords and Commons Houses of Parliament, your committee would intrust all legislation on matters of colonial interest. A special power of veto on all questions affecting Imperial interests, plenary powers of legislation were conceded to the colony. An able discussion took place on the second reading of the Constitution Bill, and the then Chief Secretary (Mr. Foster), who had recently arrived from England, and was in full possession of the intentions of the Imperial Government on the subject, stated, in the most unreserved terms, the light in which he regarded the offer made to these colonies by the home authorities. It was intended that Victoria should have a Constitution which would in every way confer self-government upon the people of the colony. The Bill was framed, sent home to England, and returned with a despatch from Lord John Russell, who repeated what his predecessor had stated, namely, that the intention of the Imperial Government was to grant full powers of legislation to this colony, with certain reservations, which were set forth in the Bill. Now what was the power granted to the Legislative Council and the Legislative Assembly of Victoria? It was “to make laws in all cases whatsoever,” subject to certain restrictions. What are those restrictions? They are stated in one of the clauses of the Constitution Act, which provides that, in certain cases, Bills must be reserved for the signature of Her Majesty’s pleasure thereon. It is true that the old Legislative Council did insert some other restrictions in the Constitution Act. For instance, it provided that certain laws could only be
passed by an absolute majority of both Houses; but that clause, as was pointed out in Lord John Russell's despatch, can be repealed, as any other portion of the Act can be repealed.

Mr. HIGINBOTHAM.—By a majority.

Mr. MACGREGOR.—Yes, by a majority. We have already repealed one part of the Constitution Act, and if we like to go to work by repealing the 60th clause—the absolute majority clause—we can repeal every clause in the Constitution Act by a bare majority of both Houses. Reference has been made to a clause prohibiting the imposition of differential duties; but we can repeal that clause, and then our power to impose such duties is ample. Again we are told that, before any money can be voted by this House, a message must be sent by the Governor recommending the vote; but that provision of the Constitution Act simply adopts a standing order of the House of Commons. If we think that the matter will be better regulated by a standing order of the House than by legislative enactment, all that we have to do is to repeal that clause by a bare majority of both Houses, and frame a standing order instead. The result therefore comes to this—that we are only restricted in the matter of legislation in so far that Bills must be reserved in certain cases for the signification of Her Majesty's pleasure thereon. If, then, with this exception, we have plenary powers of legislation, it appears to me that the Home Government are not justified in interfering in any matter of legislation outside the Constitution Act itself. In my opinion it is *ultra vires* for the Secretary of State, by instructions or despatches, to indicate what measures may be introduced to Parliament or how they may be introduced. In doing so, he goes beyond his powers. He cannot abrogate an Act of Parliament; and therefore any interference by him with the action of the Governor, except as to the assenting to or reservation of Bills is *ultra vires*. Why, then, it may be asked, should the Governor obey other instructions? The Governor is powerless. He must obey his instructions, or he must resign, or be prepared for the alternative of being removed. If the Australian colonies, like the chartered colonies of North America before the War of Independence, elected their own Governors, then, of course, the Governor, should the Secretary of State write a despatch instructing him as to the introduction of particular Bills or as to the form in which they should be introduced, would reply—"I cannot obey these instructions; I can only respect your instructions so far as they are recognised by law; to that extent I am prepared to act; but whenever you ask me to do something which I am not required by law to do, I must simply decline to carry out your instructions." That, however, cannot be the case in this colony, so long as the Governor is sent out from the mother country, and not elected by ourselves. I do not at all bring this forward with the view of advocating the election of the Governor ourselves, instead of his being delegated to us by the Imperial Government, but simply for the purpose of showing that, by the present system, the Imperial Government are enabled to set aside the provisions of our Constitution Act, and restrict our plenary powers of legislation to a greater extent than that Act sanctions. We are therefore justified in representing to the Imperial Government, that any interference not authorized by that Act is not warranted by law, and that we are not fairly treated if we are compelled to submit to a dictation which is wholly unauthorized. We have been told that if we are dissatisfied with our present relations with the Imperial Government we are at liberty to shift for ourselves. No doubt that is the case. We cannot conceal the fact that, of late years, a very great change has taken place in the public opinion of England, with regard to the colonies. The colonies were looked upon 100 years ago, and even within the last thirty years, as of very great value to England; but the opinion of the people of England on that subject has very greatly changed. The prevailing opinion now seems to be that the sooner the old country can honorably get rid of her dependencies the better. It may be that England incurs a larger expenditure upon her army and navy than would be necessary if the colonies ceased to belong to her; but we see that the policy of England, although she still retains possession of the colonies, is to decrease both her army and navy. How is this? Simply, I suppose, because the people of England think that the colonies are not of much consequence to them, and are not inclined to continue the expenditure which they have hitherto borne in order that England might effectually defend her colonial dominions. This being the case, the time has certainly come when we ought to have some understanding
as to our relations with the home country. It will be too late to do so when war has broken out. The matter should be considered in the time of peace, when we can bring our minds to it without any undue excitement. It may be said that Europe is tranquil at present; but how long can we calculate upon that tranquility continuing? Europe has been compared to a volcano, which may burst at any moment. It will be too late for us to think about defending ourselves when the horrors of war have commenced. We ought to know to a certainty how far Great Britain is prepared to extend protection to us in the event of war, and having ascertained that, we shall know how far it is necessary for us to make provision for ourselves. While we remain part of the British Empire we must, as a matter of course, if the empire becomes involved in war, share the hardship of the connexion which at present exists between the colony and Great Britain. It is therefore only reasonable to expect that our defence should be contributed to in some degree by the mother country. I do not say we should expect England to bear the whole expense of defending her colonial dominions; but certainly those dominions, while they remain part of the empire, and are liable to be drawn into war along with it, should expect some protection to be extended to them by the home country in the event of such a calamity as war occurring. The question is what should the mother country be prepared to do, and what measures can she expect us to adopt for our own defence? Upon this point we certainly ought to have an understanding, and the sooner we come to one the better. With that view no doubt some inquiry is necessary. I do not think that the passing of a series of resolutions submitted by one honorable member, however able he may be, is all that is required. We ought to have an opportunity of considering the question of the relations between the mother country and the colony in all its bearings, and, for that purpose, I think that the matter should be referred to a select committee. I repeat that I agree substantially with the resolutions of the honorable and learned member for Brighton, but I should certainly like to see some amendment in the form of the resolutions. The honorable and learned member has attacked—at all events he has animadverted upon—the absentee colonists. I am not aware that those gentlemen have done much for the colonies from which they have amassed their wealth; at the same time, I do not desire to throw any unnecessary aspersions upon them. I think that we should simply let them alone. Some persons say that they should be taxed. If there is any equitable way in which they can be taxed, I see no objection to taxing them. Some of the absentees derive great wealth from the colony in proportion to which they contribute very little to the revenue of the colony, considering the police and other protection their property receives. Certainly they ought to be made to pay their fair share of taxation. I do not think, however, that they ought to receive any unnecessary condemnation. We must also remember that some of the absentees are in a measure exiled from the colony. Some of them have endeavoured to serve the colonists in the colony, but have ceased to possess the public confidence which they at one time enjoyed. Some of them were legislators years ago, but have since been rejected by the constituencies, because, I presume, their views were not in consonance with those of the people at large. I trust that the honorable and learned member for Brighton will consent that his resolutions should either be considered in committee of the whole House, or referred to a select committee. I believe that it would answer every purpose if they were remitted to a committee selected from all sides of the House. A large majority of honorable members are prepared to go substantially with the honorable and learned member for Brighton, provided that they have an opportunity of fairly considering the resolutions. I am sure that the honorable and learned member does not wish to take the responsibility of them upon himself; but would prefer that it should be shared by his fellow members—that they should have an opportunity of fully considering the resolutions, and arriving at the best mode of maintaining the rights of the colony, and placing the relations between the colony and the mother country on a satisfactory footing. Although we hear that the mother country is at present rather indifferent about her colonies, I hope that that feeling may change. I believe that the union of Great Britain and her colonies might be improved to the advantage of both. I believe that if those relations are clearly defined, so that they may constitute a friendly alliance, and not a
degrading bond, there is nothing to prevent these colonies remaining in union with their mother country for any length of time. The tendency of matters, both in England and the colonies, appears to be to make the British Empire united, not merely in name but in reality; and I trust that union may be consummated in such a way as to render the connexion between these colonies and the mother country long and lasting.

Mr. McCULLOCH.—Mr. Speaker, I desire to offer some observations before the debate closes, although I think the subject has been thoroughly ventilated, and although honorable members have given their adhesion, to a large extent, to the resolutions moved by my honorable and learned friend, the member for Brighton. There is no doubt that the question involved in those resolutions is one of great importance, affecting, as it does, the interests of this country, not merely at present, but for all future time. It is a question which has been forced upon our consideration by the action of parties in England—by the gentlemen who recommended a colonial conference in London, and also by Earl Granville. And here I must say I regret that the Government did not take up this question and deal with it as a Government question. It is a question which requires to be dealt with by the Government, rather than by a private individual. The Chief Secretary stated, when the papers were asked for in the first instance, that the Government had not had time to consider the question, and that it was desirable that the House should express an opinion upon Earl Granville’s despatch, thus courting an opinion from the House, or inviting some honorable member to bring the matter under consideration. I regret the honorable gentleman took that course, because the question is one which ought to have received the attention of himself and his colleagues the very moment it came under their notice. Earl Granville’s despatch was couched not exactly in the usual terms, because it closed with a recommendation, or rather an instruction, to his Excellency the Governor, that that despatch should be communicated to his advisers.

Mr. MACPHERSON.—Perhaps the honorable member will allow me to remind him that the honorable and learned member for Brighton raised this question not on the despatch of Earl Granville, but on the communications from Mr. Verdon and the conference committee. Earl Granville’s despatch arrived subsequently.

Mr. McCULLOCH.—In any case, the moment that despatch reached the Chief Secretary’s hands, it became his duty to take up the matter as a Government question, even though it might already have been taken up by a private member, and particularly as the question was re-mitted by the Imperial Government for the consideration of His Excellency’s advisers. If such important questions as these are to be left to be dealt with by private members, the suggestion will by-and-by arise that we might as well dispense with Government altogether. No doubt the question is an important one, no doubt its consideration is beset with considerable difficulty, but that is no reason why the question should be shirked. We are bound to deal with the question. But, in so doing, we should approach it in a calm and deliberate manner. There is no necessity for the employment of strong language, but there is every reason for giving a question which affects our interests so intimately—and which has been brought under His Excellency’s notice, in a very proper spirit, by Earl Granville—our best and most earnest attention. Now it has been urged, both inside and outside this House—certainly outside the House to a large extent—that there is a desire on the part of my honorable and learned friend, and those who support him in these resolutions, to cut the connexion with England. A more false cry never was raised. I believe it is raised by many knowing it to be untrue. I trust there is not a man in this country who desires at the present time to sever the connexion with Great Britain. I do not think that, at the present time, anything would be gained by such a separation. I regret that parties outside the colony—residents in England for the most part—are advocating the throwing off of the colonies. A greater mistake was never contemplated. I repeat that there is a very general desire felt in England to get rid of the colonies. I say this, because I find the leading journal of England—the London Times—advocating views in that direction. We know that the Times very seldom goes ahead of public opinion—it generally goes abreast of it—and I regret that that feeling is gaining such strong ground in England. I am glad to say, however, that that feeling has gained no ground whatever in this
country. My own conviction is that for England to throw off the colonies would be to inflict upon herself the greatest blow she has received for many a year. To a very large extent, her position would be compromised; she would fall from the place which she now holds among the nations of the world. Nor do I see what advantage is to be gained by the colonies by any separation from the mother country. Some of the English newspapers speak as if separation would result in gain to the colonies; but I have not been able to discover that the colonies would gain anything. Sir, we want no separation. The people of this country desire to remain connected with England and her greatness; and I believe the people of this country will still hold the privileges which they believe they possess under the Constitution. Yet there is no doubt that separation will come some day. This colony will some day be disunited from England. Probably certain people will think that this language partakes somewhat of treason, but as sure as the United States separated from England, so sure will this colony or Victoria be, sometime, separated also. I do not think that, at the present time, we are ripe for that. But years hence, when the population has increased, when probably a federation of the Australian colonies has been secured, when we have grown to such an extent as to be able to stand alone, separation will come. But when it does come I trust it will be so arranged as to be of the most amicable character—that it will proceed from mutual good understanding on the part of England and the colonies. Now, sir, what has led to this subject being forced upon our attention at the present time? The immediate cause is the position of New Zealand in reference to the maintenance of troops. It is not for me, nor for the House, I think, to enter into the question as to whether New Zealand was right or wrong in the course she took in the first instance; but I will say that before New Zealand elected, in the first instance, to dispense with Imperial troops, she should have well counted the cost, and made up her mind to defend herself not only from internal enemies but from attacks from outside. If a colony once makes up its mind, and says—"We are prepared to defend ourselves—to maintain such an army or such a defence as will thoroughly protect us," it should not go to England and ask for aid, and the people of that colony should not complain if, on such an application being made, England does not meet them as they might expect. At the same time I think that England might well have considered the particular circumstances in which New Zealand was placed. Even admitting that New Zealand was wrong, in the first instance, in refusing to maintain Imperial troops, yet, under the peculiar circumstances of the case, I think it would have been well if England, merely to save life, had sent some assistance to that colony. If she could expend a large amount of money—some £4,000,000 or £5,000,000— for the purpose of relieving a small number of persons in Abyssinia, she might well have sent some assistance to the colonists of New Zealand. England has not thought fit to do so. I repeat that it is not for us to discuss that question. I merely say that it has been the means of forcing upon our attention this subject of the relations of the colonies to the mother country. The subject has been taken up by certain gentlemen who formerly were colonists, and who were disposed to endeavour to relieve the colonies from a system of mismanagement in connexion with the Colonial-office. It is astonishing to read the English papers and find what unanimity there exists with regard to the mismanagement of the Colonial-office. There is a general expression of opinion that it is surprising how the colonies have gone on so long with the Colonial-office managed in the way in which it is. But the question has also been raised through a correspondence which has taken place between the Government of this colony and the Colonial Secretary in England. It will be remembered that, in the beginning of this session, when the Estimates for the year were under consideration, a discussion took place with regard to the conditions on which we would continue to pay for the maintenance of the Imperial troops in the colony. There was a unanimous feeling that we should not pay for Imperial troops unless the Imperial Government were prepared to make such arrangements as would allow of those troops remaining here in time of war as well as in time of peace. It was also agreed, and the desire was conveyed in a memorandum which I addressed to His Excellency the Governor on the subject, that the class of military stationed in the colony should be artillery. Now I think that determination arrived at by the House was a wise one; and I regret
that the honorable and learned member for St. Kilda (Mr. Fellows), when addressing himself to this subject the other evening, should have spoken as follows:—

"So far as I heard, New South Wales was the only colony which embraced the suggestion."

That is as to the maintenance of Imperial troops in these colonies.

"contained in the despatch, and acted on it. We took no notice whatever. We made no suggestion, no inquiries, and had no communication whatever with the Imperial Government on the defences of the colony on any tangible basis. I quite agree that it is absurd to have a military force in the colony in times of peace, and to have it withdrawn in case of an invasion; but we have the remedy in our own hands. We have simply to suggest to the British Government, that, supposing they fixed the maximum of their army at say 100,000 men, we would pay her separately for any number in excess of that which we wished to maintain permanently in the colony in times of peace and war. If that were done I have no doubt she would consent. You cannot expect the Imperial Government to keep a regiment in a colony subject to the mere caprice of a colonial Ministry or Parliament."

This shows very clearly that the honorable and learned member was speaking really of what he did not know. He had no such case before him. He might have known that an extensive correspondence had been carried on for a number of years with the Colonial-office, in reference to the presence of a certain number of the Imperial troops in this colony. I must say that this Legislature has at all times been prepared to deal in the most liberal way with the Imperial Government with regard to the payment of the troops stationed here. All that has been asked for by the colony is that we should have artillery. Owing to the amount of indecision exhibited by the Colonial-office, the question was to a large extent laid aside. At the same time this Government continued to pay for the Imperial troops what was asked. Now, in connexion with the remarks of the honorable and learned member for St. Kilda, I think it right to refer to the memorandum which I addressed to His Excellency, and the despatch of Earl Granville on the subject. The honorable and learned member for St. Kilda, speaking as if he had authority to do so on behalf of the Colonial-office, said it was preposterous to suppose that military aid would be refused; it would not be refused, it was certain to be granted. Now what is the fact. I stated, in my memorandum to His Excellency:—

"It is true that the cost of the maintenance of artillery would be greater than that of infantry, but this would, in the opinion of the Legislature, be a small consideration compared with the advantage of the garrison consisting of that class of troops which is absolutely necessary for the protection of the harbour. As regards the first point, your Excellency will doubtless readily perceive that a great hardship would be inflicted upon the colony by its being called upon to pay in peace for the maintenance of troops, in time of war, when troops would be really required, they should be withdrawn.

"As regards the second point, I may explain that no objection would be entertained to the occasional change or removal of the troops subsidized by the colony, provided that the troops furnished in exchange are of the same class, namely, artillery. The vote for the military subsidy for the present year was passed on my undertaking to acquaint your Excellency, for the information of the Imperial Government, with the views above expressed, which views I may add, meet with the entire concurrence of your Excellency’s advisers.

"The conditions, therefore, on which the colony will continue to pay a subsidy towards the expense of Imperial troops are—

"First—that they shall remain here in time of war as well as in time of peace. "Second—that they shall consist of artillery."

Now what is the reply of the Colonial-office to this most reasonable request that this country should not be called upon to pay for the maintenance of Imperial troops in time of peace when we really don’t want them, if they are to be withdrawn in time of war? The answer of Earl Granville, though couched in very proper terms—just in the language we might expect from such a nobleman—is a refusal to comply with that most reasonable request. It is as follows:—

"Her Majesty’s Government are by no means surprised that the Victorian Ministry have decided not to retain the Imperial troops in the colony, except on the conditions set down in the memorandum of the Chief Secretary, enclosed in your despatch, No. 55, of 25th March.""

This shows that Earl Granville thinks that the demand we made is only a reasonable one—that the proposition is a fair one from a colonial point of view.

"But," he goes on to say, "those conditions, from an Imperial point of view, are not such as Her Majesty’s Government could properly accede to; and connecting this decision of the colony of Victoria with the recent removal of Her Majesty’s troops from Queensland, they anticipate that it will be requisite, after the conclusion of the present year, to withdraw the infantry and artillery now in Australia. Her Majesty’s Government have not thought it right to adopt any definite conclusion on the subject before receiving more complete information as to the wishes of the Australian colonies generally. But I have thought it best at once to place you thus far in possession of their views and expectations."

Now, I ask, what position should we take up under these circumstances? Sir, we
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must have a defence. The Imperial Government will give us no guarantee whatever that they will allow their troops to be retained here when we really require them. They admit the justice of our claim, but, at the same time, they won't concede it. Therefore there is nothing for us but to make preparation for our own defence. We must do this if we cannot depend upon the Imperial Government in the matter. Certainly we should not leave the question in a state of doubt until the time of action arrives to find us unprepared. I may here say that I don't think this colony, or indeed any colony enjoying responsible government, should cost the Imperial Government any money whatever. We ought to meet our entire expenditure without any sort of assistance from the Imperial Government. I regret now that we accepted the amount which was granted to us in connexion with the fitting out of the Cerberus. Something like £100,000 was granted by the Imperial Government for that service; but I trust the House will yet see fit to offer to repay the Imperial Government any money they may have laid out in connexion with the vessel, so that she may be placed entirely at our own disposal. Indeed I think the Chief Secretary will find in his department a memorandum urging upon the Imperial Government to place the Cerberus entirely under the control of this colony. I am sorry to say that the misapprehension of the honorable and learned member for Brighton, as to the Nelson and the Cerberus being manned by Imperial officers, was shared by the Chief Secretary. But the gentleman in charge of the Nelson is not an Imperial officer. At one time he was an Imperial officer, but he does not hold that position with regard to the Nelson. We have the entire right of dealing with that ship as we think fit. It was reported to me, some time since, that it was the intention of the Imperial Government to send out an Imperial officer to remain in charge of the Cerberus. I at once addressed a minute to His Excellency, stating that we could not accept the vessel if that was to be a condition of the acceptance, and insisting that the vessel should be manned entirely with men of our own appointment. I believe such will be the case. I think there is, in the Chief Secretary's office, a despatch, from which it will be seen that the Imperial Government have given up any idea of appointing an Imperial officer; and I believe that, if the matter were still further pressed, this vessel would be left entirely to our own control. I trust that the honorable gentleman who has succeeded me in office will not allow the matter to sleep; but will press upon the Colonial-office the necessity for allowing the ship to remain here entirely under the control not of the Governor only—I must oppose that, though I mean no offence to His Excellency when I say it—but of the Governor in Council, as representing this colony. I am satisfied that, if this matter is pressed, the Imperial Government will give in. Now, sir, while I state that the colony should cost the Imperial Government nothing—that we should not ask for any favour in the way of pecuniary grant, because we do not need it, because our means are ample for all our requirements—I also say that we should not be asked to contribute anything to the Imperial Government. And yet I am sorry to find it urged by the leading journal of England that the colonies should be taxed for the defence of Great Britain—that a portion of the Imperial debt should be borne by the colonies. Now I am quite sure that any attempt to carry such a proposition into effect would be useless. I regret to observe, in the same newspaper, the colonies referred to as "burthensome possessions." Now it is thought that we employ strong language sometimes, when speaking of the mother country; but I say that the expressions which are used in England with regard to the colonies are far stronger, and far more irritating. The question of the troops having been finally disposed of, and that in such a way that neither one side nor the other has taken offence—in other words, the suggestion of Victoria, with regard to the troops, having been accepted by the Colonial-office—it is our business now to prepare for our own defence; and therefore the second of the resolutions, which declares our readiness in that regard, may well be agreed to by the House. It is now for us to let the people of England know that we fully realize our right position, that we are desirous to relieve them from all expenditure on our account, and that we are prepared to maintain our own defences. We can do this well, though not I think by the means suggested by the honorable and learned member for Brighton, because, much as I admire our police force—I don't think there is a better police force in the world—I am afraid we should
want something more for defensive purposes. In fact I have always maintained that that is not the class of force that we need in the matter of defence. It is not infantry but artillery that is required in a colony like this. We have no difficulty in providing thoroughly for our own internal protection. What we want is defence for the harbour and the coast, and that can be furnished only by means of artillery. I believe we could raise in the colony an effective class of men, who would in time become the best possible artillery to be found in the world. True such a force might cost a little more money than we pay to the Imperial Government for the maintenance of troops, but we would have the satisfaction of knowing that we had entirely under our own control a better class of men, a better kind of defence than we have had in the past, for I think that, in the past, we have had hardly any defence whatever. I believe there may be raised in the colony a force—a nucleus for defence—which, aided and supported by the volunteers, would make us perfectly safe. I do not believe that the volunteers alone would be sufficient, but I believe that, with the nucleus of a regularly-trained and well-paid body of men, they would furnish an adequate defence for the colony. Now, sir, why are we willing to do this? Why have we agreed to bear the whole cost of our defence—to provide all that is necessary for the requirements of the country? Because we believe we have responsible government. Had we remained a Crown colony, we should, naturally and rightly, have looked to the Imperial Government for aid in our defence. But we have had granted to us the entire management of the affairs of this colony—we have had granted to us responsible government as full and as free, I believe, as that enjoyed in England. No doubt there are certain peculiar circumstances connected with our position, but, in my opinion, they do not militate, in the slightest degree, against our enjoying responsible government to the fullest extent. With regard to another subject referred to in the resolutions—namely, Imperial legislation regarding the internal affairs of Victoria—I am sure we all hope that the Imperial Government will not legislate in connexion with this colony unless at the express desire of the colony itself. I trust that the colony will be able and is prepared to resist any attempt at legislative interference with our own local management. I find that this subject of Imperial legislation with regard to the colonies—of Imperial interference with the action of the colonies in legislation—is thus referred to by the Times newspaper:—

"What is the extent of this Imperial sway over ours? Can we change the Constitution of a single colony? Can we alter its laws? Can we summon it to our assistance with money or with arms? Can we direct its fiscal policy? We have abandoned, one by one, all these privileges. A single circumstance may show to what extent the freedom of action of our colonies may go. It is at this very moment a matter of discussion in Canada whether a treaty of reciprocity should not be concluded with the United States; and the result of the deliberation may very possibly be the admission of the manufactures of New England into the Dominion under lighter duties than the manufactures of Great Britain."

Now I think that is an admission that we are in the enjoyment of responsible government to the full extent; and I say that to enjoy that responsible government without interference is all that we desire. It is stated by the Times that the Imperial Government or Legislature cannot interfere with any of our arrangements, with any of our legislation, with any features of our fiscal policy—they have given up all pretension to interfere in such matters, which are now left entirely in the hands of the Legislatures and people of the colonies. Now if we have all this, I think there is an end to the question. But I don't think that we have, at the present moment, as much as the Times newspaper says we have. The gist of the whole matter lies in this: to what extent is the legislation of these colonies interfered with by private despatches—by the despatches from the Imperial Government to Governors? No doubt, the Imperial Government may claim the right to address their representative in this colony. Of that we have no right to complain; but I say that matters affecting the management of the internal affairs of the colony are matters not to be dealt with by despatches between the Imperial Government and their representative. Already we have had experience enough of the interference of Colonial Secretaries. We have known them to give expression to opinions in a manner very strongly indicating their views as to the course of action which should be pursued by the Governor for the time being. We have had a free trade Colonial Secretary giving strong expression to his sentiments with regard

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to the course of action that ought to be pursued by the colony in fiscal matters—arguing that as free trade had been good for England it was much to be desired that the system should be continued or adopted in the colonies. But, without touching upon the question of free trade or protection, I ask what right has a Colonial Secretary or the Colonial-office to seek to influence, by the expression of opinion, what may be taking place in this colony? And who is it that interferes? Not the Queen; but a Minister responsible to the people of England—a Minister liable to be removed from office any day. One day we have a free trade Colonial Secretary giving expression to his free trade views to the Governor of this colony, when suddenly an appeal to the English constituencies may cause a change in the Imperial Government, and then we have a Colonial Secretary probably holding entirely different views on fiscal matters, and expressing to the Governor the hope that he will not go in for free trade, but that he will do all he possibly can to secure the adoption of protection. Therefore I say that although legislation may not immediately be interfered with, yet a great deal of interference may be exercised by means of these despatches—despatches which are addressed to the Governor, and are not known to His Excellency's advisers. For example, Earl Granville has lately addressed to the Governor of this colony a despatch on a very important subject. The Governor has replied to that despatch, but the people of this country know nothing whatever of the nature of that reply. But, I ask, ought we not to have some one here responsible to us for the answering of such a despatch? I say that, when despatches affecting the public interests of this country come here, they ought to be answered by those who are responsible to the representatives of the people. I believe that much of the mischief which has accrued in the past would have been avoided if the Ministry of the day had been responsible for the answering of those despatches. Would it not be much better if we could hold the present Ministry responsible for the reply that has just gone home to Earl Granville? The reply has gone home, and it will appear in the newspapers in England long before we know anything whatever of it—and it will appear as the reply of the people of Victoria to Earl Granville's despatch. (“No.”) It will appear in the English newspapers as the reply from the head of the Government of this country to Earl Granville on an important subject; and yet Ministers here, representing the people of this country, know nothing whatever of it for perhaps six months after it has left the colony. Now I say that is a wrong position for us to be placed in. We ought to be able to hold the Ministry of the day responsible for all such acts—to hold honorable gentlemen opposite responsible for all the acts which the Governor does in a public capacity. He ought to do nothing of a public kind without the advice of his Ministers. I desire that the Ministry should go in for this most heartily—that all despatches addressed to His Excellency should be delivered immediately to the Government, and that the Government should be held responsible for the replies thereto, every reply being based on a memorandum submitted to His Excellency by his advisers. That, in my opinion, is the proper way in which the Government of this country should be carried on. Is not that the way in which responsible government is conducted in England? And is there any reason why we should be placed in a different position? It has always seemed to me most anomalous that a responsible Minister in England should be sending out advice here relative to our internal affairs—a Minister who is liable to be superseded at any moment by some one holding totally different views on the same subject. Why, under such an arrangement we may have conflicting despatches by the same mail. I think it highly desirable that this question should be settled now. There is no necessity whatever for putting it off. It is a question, depend upon it, which we must face some day, and the sooner we do so the better. I was struck with some of the remarks made by the Chief Secretary on this subject. The honorable gentleman said he stood up to protest against any Imperial interference in our domestic affairs; and, with regard to the question whether we are in any way bound to respect the advice or instructions that may be sent to His Excellency the Governor, his reply was—“Certainly not.” Now, I ask, is that a right position for us to continue in—that certain instructions should be sent to His Excellency, and that his advisers here should refuse to obey them? Why should the Governor be asked by a
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responsible Minister in England to do a particular act, when the responsible Minister here says—"You shan't do that act, we will not submit to it?" I say that is a position of things which should be mended now. The sooner we come to an understanding on that subject the better will it be for us. The more, too, will the people of England think of us, because they will see that we are not straining after anything which is not our due—that we are demanding only the very privileges which they themselves possess. We ought to protest against delaying the settlement of a question of this kind. We ought to show that we are determined, if certain instructions come, to resist them. Both the Governor and the Colonial-office will, I am sure, thank us more for speaking out what we think and desire, than for shirking the question, keeping something in the background, or giving vent to expressions like those I have quoted. "Are we bound to respect Imperial advice or instructions?" "Certainly not," says the Chief Secretary. I say such an attitude is unfair to the Governor; and I trust that the Chief Secretary will see fit to change his view on this particular case, that he will help us to meet the difficulty, and to place ourselves in that fair and proper position which, as a colony, we ought to be placed in. What is now required is a full and free expression of opinion, and a clear understanding as to what our rights are. Let us understand what responsible government is, if we have it. Let us act up to the privileges we have obtained. But if we have not responsible government let us also understand that. If we have not responsible government it is a farce to go through the form of electing Ministries and prosecuting legislation—it is a farce to go through the form when we have not the reality. Judging from all that has been said and written in England on this subject, judging from what Earl Granville has intimated—that he will listen with the greatest consideration to any suggestion which we may have to make on this subject—I believe that, if our case is only fairly, honestly, and plainly put, our wishes to a large extent will be acceded to. Enough has come out in this debate, from all sides of the House, to show clearly that there is no desire on the part of this colony for separation, or for taking up an antagonistic position either to the people or Government of England. Far from it. But I believe we shall go on much more smoothly, that we will get on better with the people of England, if we have a clear understanding as to what our position is, than by continuing the indefinite system which has hitherto prevailed. As I have said already, some persons appear to regard any reference to the possibility of separation as treason. I repeat my belief that separation will come, but I trust it will be a long time first. I trust also that, when it does come, we shall be fully ripe for it. I may add that a newspaper which I received by a late mail contains reference to some remarks of Sir John Young, Governor of Canada—who, I believe, among the governors under the British Crown is second to none—remarks made at Nova Scotia in explanation of a statement which had been circulated charging him with advocating separation from the mother country. Sir John Young denied that he had done anything of the kind, and stated that he had been misreported. What he said was that very large alterations must be made shortly in connexion with the relations existing between the Imperial Government and the colonies. He, the accredited representative of Great Britain, had no hesitation in giving expression to such an opinion as that. Now I do not see why we should hesitate in expressing, as clearly, what our views are. I believe, as I said before, that we are more likely to be thanked for expressing our views than for concealing them. Let it be openly understood what we go for. With regard to these resolutions, I believe that to a very large extent they carry out the views that have been expressed by honorable members who have addressed themselves to this subject. They clearly point to the position we have assumed with regard to the payment of troops—they point also to the interference of the Imperial Legislature, and to every other question that has cropped up during the progress of this discussion. It is quite possible that there may be some expressions, some words, used in these resolutions that may not have exactly met the views of some honorable members, but I believe that, on the whole, they meet the case as fairly and as fully as can be desired. I think it possible that some alterations may be made in them if they are submitted one by one from the chair, when honorable members would have a full opportunity of expressing their views upon them. I am aware that the honorable member for

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Richmond (Mr. Francis) has taken objection to the fifth resolution, but personally I do not attach much importance to that one. On the contrary, whilst I do not object to it as a whole, I think it might be left out of the series without any disadvantage. It is most satisfactory—it is highly gratifying—to me to find that there is such unanimity on the part of this House as to the desirability of having a better understanding with the Colonial-office than that which has heretofore existed. I confess to having entertained a fear—judging from statements which have from time to time appeared in the newspapers—that the mere mention of these resolutions, which have been introduced by my honorable and learned friend, the member for Brighton, would have produced a very different effect; but I am most glad to find that they have been met in a spirit which shows a desire on the part of this House to obtain responsible government in its true sense, and I am persuaded that if we persevere in the course we have entered upon we shall have it secured to us in a comparatively short space of time.

Mr. Blair.—Sir, I do not think that, with the exception of the honorable and learned member for Brighton, a single honorable member who, having addressed the House on the question, has avowed his intention of supporting these remarkable resolutions, has come near the dignity, gravity, and importance that surrounds it. It is no empty compliment to the honorable and learned member to say that, in an oration with which he delighted the House, he exhausted the whole subject, so far as it could be dealt with from the affirmative side, and that since that speech was delivered we have heard nothing from those who have followed on the same side but diluted versions of that splendid specimen of parliamentary oratory. Some honorable members have, I regret to say, stooped to the low level of dealing with this question as one of difference between two parties in this House. Sir, it is no party question—no question as between two political sections of this House. It cannot be of greater interest to this House to know what newspapers in London, or in this country, can say on questions of this nature—progressive questions of great national importance—than that it marks an epoch in political colonial history and progress. These resolutions will leave their impress upon our future legislation; and, whether they be accepted or rejected, or whether they be subjected to considerable modification, the effect of them will be this, that henceforth the whole character of the relations subsisting between the mother country and this colony will undergo a material change.

But although the honorable and learned member for Brighton did sustain those resolutions by a display of oratory most remarkable—although there was not in the course of his speech a single sentence that was below the level of the occasion, and which had not on it the mark of genuine statesmanship, although delivered with perfect sincerity of purpose, I do not take exception to the whole series of resolutions. On the contrary, I agree with everything except the precise terms in which they are couched. I accept the first three of them without question, as they stand. There is, I believe, perfect unanimity of feeling with respect to them. But then, sir, the fourth and fifth resolutions come before us. For myself I may say that I have never given to any subject such close, continuous, and, at the same time, thoroughly conscientious and impartial consideration, as I have given to this. I have never before given to any resolutions of a like kind or character such earnest attention. I have weighed them word by word; and it is with a fixed and resolute purpose, after long and dispassionate consideration, that I shall give my vote this evening. I object to the last two resolutions. On my honour and conscience I regard them as resolutions which I cannot vote for unless they are subjected to very considerable modification. Why not? I look at their general scope and bearing. The question has been forced upon me again and again.—Do not these resolutions expressly embody the condition of things existing as respects the relation of this country to the mother country—do they not give expression to the feeling which a House of Legislature like this entertains on such a question? And then arises this question—a question that I am bound to give full weight to—What is our object, design, and intention, sitting here in our aggregate capacity, in proposing to pass them? What will be the interpretation which the Imperial Government will place upon these resolutions—resolutions of so much importance that they may be held to touch our loyalty to the mother country—nay, to the throne of Her Majesty? When we shall have placed ourselves in a position
which we never intended to occupy, it will be too late for us to say—"Oh! we never meant this." There is no use in attempting to shirk the fact that, if these resolutions are unanimously affirmed as they stand, and without such modification as I suggest, they will be taken by the Imperial Government and by the intelligent section of the people of England as an expression of independence on the part of the people of this colony—as an intimation that we wish them to be regarded as the first step towards a severance of the union existing between this colony and the British Empire. "So far," say some honorable members, "from desiring that severance, we wish to preserve the union in its integrity." Yet how can this be said in view of the fourth and fifth resolutions, which seem to me to go directly against the spirit and terms of the second? If you use language that conveys such an impression as I have referred to, the world at large will tell you that you mean it. But in the magnificent speech in which the honorable and learned member for Brighton sustained these resolutions, he made a peculiar avowal. He gave us a short but very instructive episode in his personal history as a Minister of the Crown. He told us that the opinions he had embodied in these resolutions had long held possession of his mind—for a considerable period before he ceased to be an adviser of the Crown. He further told us that certain circumstances, arising out of the relations existing between the Colonial-office and the local Government, drove him to his final resolve. This he stated in his usual clear and decisive way. Now, sir, I see that I have lost the attention of the House, and I pause to make this remark with emphasis. I notice the empty state of this Chamber, the exhausted interest in the debate, the evident indifference, nay, carelessness with which it is proceeding, and I say that I cannot but regard these circumstances as a final and conclusive argument why these resolutions—so pregnant of the most serious consequences—should not be carried. If the honorable and learned member for Brighton could have magnetized the House with the feelings that animated his mind, and gave vigour and eloquence to his language when he moved these resolutions, we should not have had a languid debate, such as we have heard adjourned from night to night, but the resolutions would have been discussed with blood-warm interest, and we should before now have had either an emphatic acceptance or rejection of them. I shall vote against the resolutions as they stand, if for no other reason than that I cannot shut my eyes to the fact that honorable members are totally indifferent to them. The honorable and learned member for Brighton told us, with his usual force and fullness of meaning, what he had felt himself constrained to do, when his mind became possessed of the convictions and opinions which he has embodied in these resolutions. I, too, have personal convictions to which I must give personal expression, and upon which I must act when the proper time arrives. I would not vote for the fourth and fifth resolutions, even although I might feel little objection to the terms of them—and I would not do so because I am persuaded that their acceptance could end in nothing less than the stoppage of responsible government in this country. If there is a single member of this House who—having followed the honorable and learned member for Brighton in his statement, that so soon as he formed the opinions which he expressed in the speech with which he introduced his resolutions, he felt that he could not, consistently with self respect, continue to hold the office of an Executive Councillor in this country—can declare within himself that he is animated by like views, let him stand forth. Sir, I cannot but feel the gravity of this occasion, and I cannot but say that three-fourths of the speaking to this question on the affirmative side—apart, that is, from the speech of the honorable and learned member himself—was nothing more than empty cant and indecent hypocrisy. I repeat that the interest in this question is evidently exhausted. Five-sixths of the honorable members of this House are obviously and utterly indifferent whether the resolutions are carried or not. If this be so, I think the honorable and learned member will see the prudence of withdrawing them. I say to him—although he is a public man of so high mark—"Either you should secure unanimity in the exact terms of your resolutions as you proposed them, or you should withdraw them; because a division on such a question as this would be fatal in its practical effect." So far as the fifth resolution is concerned I hope that it will be expunged. I have listened very carefully to the speeches of all honorable members who have spoken on this question,
and, with the exception of the honorable and learned member for Brighton, not a single one of them has said even a general word in favour of it. I could not help feeling strongly, whilst the honorable and learned member for Brighton was addressing himself to these resolutions—nor can I help feeling now—that there may be something to be asked for and expected—something to be conceded. Grant that we have grievances against the grand old mother country; grant that of late there have been distinct acts on the part of the Imperial Government which it has been exceedingly hard for us to submit to as loyal subjects of Her Majesty; grant even, if you please, that the time has come when there must be a radical change in the relations between the mother country and the colonies; yet I do not see any good reason why we should necessarily take up the “hostile position which is expressed in, and is inseparable from, the word “protest,” unless we desire to be regarded as half mutinous, certainly rebellious, children of the parent State. If grievances exist, let them be stated in clear and distinct, but not in irritating terms. Let us endeavour to have those grievances set right; but do not let us say—“Extinguish this wrong, or, if you do not, there will be sown the seeds of discontent and rebellion in the minds of your children in the far south.” Rather let us say—“If you can be indulgent, we can be magnanimous.” This, I am persuaded, is the language to be used and the attitude to be assumed; and the result will be that, for many generations to come, we shall be as loyal citizens of the British empire as though we were members of the Imperial Cabinet itself.

On the motion of Captain MAC MAHON, the debate was adjourned.

DOVER BILL.

Mr. McDonnell.—Sir, I rise to move the second reading of this Bill; and I shall—perhaps make myself best understood by the House if I content myself with referring to the principles which it is proposed to establish under it. This Bill is designed to conserve certain legal rights. Dower is a legal right in respect of property held by the husband in fee during his life-time, and which, after his death, the widow may seek to recover. The Bill merely points out the means by which these rights may be conserved. I may be allowed to read to the House a report by the Commissioner of Titles, which more fully explains the objects and the means of attaining them. It says—

“Much delay and expense are caused to applicants owing to dower rights primâ facie outstanding. The subject of overcoming these obstacles has been under considerable attention, and an enactment something like the following would not, in my opinion, be open to much objection:

“The commissioner to lodge with the registrar a list of wives or widows believed to be entitled to dower rights by reason of having been married before the year 1837, such list to be open to free inspection for a certain time.

“All excluded husband, wife, or widow to be inserted in such list without fees within a certain further time.

“All other dower rights to be considered as not attaching, unless the title expressly showed that there must have been a wife—for example, an heirship by a father to his son.

“Future certificates, whether land already under the system or hereafter to be brought under it, not to contain any dower encumbrance, unless name in list.

“Any widow deprived of her dower right by the effect of this enactment, to recover the value out of the assurance fund.”

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

DISCOVERERS OF GOLD FIELDS.

The resolution passed in committee on Thursday, November 11, in favour of £600 being voted to the discoverers of the Steiglitz and Stringer’s Creek Gold-fields, was considered and adopted.

The House adjourned at twenty-seven minutes past ten o’clock.

LEGISLATIVE COUNCIL.

Wednesday, November 17, 1869.


The Council met at twenty-five minutes past four o’clock p.m.

ABSENCE OF THE PRESIDENT.

The Clerk announced that he had received a letter from the President, desiring him to inform honorable members that he regretted being prevented by illness from attending in his place.

The Chairman of Committees (the Hon. W. H. F. Mitchell) took the chair and read the prayer.

ELECTORAL RETURNS.

The Hon. C. J. Jenner, pursuant to an order of the House (dated November
10), laid on the table a return of the electors in each province, as enrolled in October, 1869.

On the motion of the Hon. R. SIMSON, the return was ordered to be printed.

PETITIONS.

Petitions, praying that certain amendments might be made in the Land Laws Amendment Bill, were presented by the Hon. J. GRAHAM, from Colin Campbell and other pastoral tenants of the Crown; and by the Hon. N. FITZGERALD, from certain occupiers of land within the district of Campbell's Creek.

COMPENSATION TO MEMBERS OF PARLIAMENT BILL.

The Hon. J. O'SHANASSY moved—"That there be a call of the House to consider the Compensation to Members of Parliament Bill."

The motion was agreed to.

STAMPS BILL.

This Bill was brought up from the Legislative Assembly, and, on the motion of the Hon. C. J. JENNER, was read a first time.

MUNICIPAL CORPORATIONS LAW AMENDMENT BILL.

This Bill was brought up from the Legislative Assembly, and, on the motion of the Hon. C. J. JENNER, was read a first time.

The House adjourned at twenty-one minutes to five o'clock.

LEGISLATIVE ASSEMBLY.

Wednesday, November 17, 1869.


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

NEW COURT-HOUSES.

Mr. PLUMMER asked the Attorney-General if any instructions were given by the late Government for the erection of a new court-house at Warrnambool, and whether the present Government intended to carry out the work?

Mr. F. L. SMYTH put a similar question with reference to the erection of a court-house at Bairnsdale.

Mr. McDONNELL stated that, on the 16th September, the late Minister of Justice sent a requisition to the Public Works department, for the erection of a court-house at Warrnambool, the estimated cost being £2,500. At the same time, a requisition was also sent for the following works:—Additions to the Melbourne County Court-house, £2,450; additions to the Belfast Court-house, £750; a new Court-house at Oakleigh, £500; and a new Court-house at Bairnsdale, £2,000.

The estimated total cost of these works was £8,500; but, as the amount of money available was only £2,000, the promises of the late Government could not be fulfilled at present.

Mr. CASEY said, a short time before the late Government left office, a return of the money available for court-houses was obtained from the Public Works department. The returns showed, as nearly as he could remember, that a balance of between £7,000 and £8,000 remained unexpended. He then prepared a schedule, setting out the court-houses which he thought ought to be constructed. The list included Warrnambool and Bairnsdale, but what position they occupied in it he was not prepared to say.

MR. JOHN URQUHART.

Mr. MACGREGOR asked the Minister of Lands whether Mr. John Urquhart had been lately appointed to the office of inspector of Crown lands bailiffs for the Western district, and whether any documents existed evidencing such appointment having been made or intended?

Mr. McKEAN said no papers relating to the matter were in the department, and he was positively informed that no such appointment as that referred to had been made or promised.

SEBASTOPOL POSTAL SERVICE.

Mr. JONES called attention to the condition of the postal service at Sebastopol. The population numbered 8,000, and yet there was but one postal delivery daily; but the employment of an additional letter-carrier would place the locality in the same position as Ballarat, where there
were two deliveries daily. He begged to ask the Chief Secretary whether he would cause an additional letter-carrier to be appointed; also, when receiving pillars, long since promised, would be erected in the borough?

Mr. MACPHERSON said he could not promise that an additional letter-carrier should be appointed, but he would undertake that, when the telegraph-office was opened, the messenger should assist in carrying letters. With regard to the question of the pillars, he might state that the Sebastopol Borough Council had applied for the shutting-up of two offices at stores, which, he was credibly informed, would be a serious inconvenience to the inhabitants. Therefore he did not think it desirable to accede to that request in order to establish a greater number of pillars. However, he had promised that two pillars should be erected; the site of one had already been chosen, and the site of the other would be selected as soon as possible.

Mr. JONES observed that he did not endorse the action of the borough council with regard to the closing of the offices at stores.

LAND SALES AT BALLARAT.

Mr. JONES called attention to the repeated withdrawal of lands from sale at Ballarat, after announcement for sale by auction; and asked the Minister of Lands if he would cause such allotments to be sold forthwith, unless good reasons could be assigned for their retention in the hands of the Government? The Band of Hope and Albion Consols Company (said Mr. Jones), believing their lease would be sold, repeatedly made objections, which had a very bad effect in the way of preventing the sale of land for settlement in the neighbourhood of Ballarat. However, his complaint applied to land generally on Ballarat which had been repeatedly announced for sale, and withdrawn on the very day that the sale should have taken place, to the great loss and inconvenience of a large number of persons. He might also mention that allotments immediately adjoining allotments which were sold a little while since at £75 per acre, were now announced for sale at an upset price of £150 per acre; and allotments adjoining those which were recently sold at £150 per acre, were now put up at £200 per acre. He trusted the Minister of Lands would give these matters his personal attention, and not allow such inequalities.

Mr. McKEAN admitted that a great deal of hardship had existed in connexion with the putting up for sale of allotments at Ballarat, and withdrawing them. There were cases of land being put up as many as six times only to be withdrawn. A block had been put up, and perhaps one allotment sold, the others being withdrawn for mining reasons. Sometimes only one half of an allotment was sold, the other half being withheld for mining reasons. A short time ago, a deputation brought under his notice the fact that these repeated withdrawals were owing to the circumstance that the Mining department was not consulted with reference to the lands until they were gazetted for sale. He had directed in future that the objections of the Mining department, if any, should be ascertained before the land was gazetted, and thus the cost of advertising and inconvenience to the public would be saved. He had also directed that a plan of the allotments which had been repeatedly withdrawn should be forwarded to the Mining department, with a request to point out all the allotments that could be sold without interfering with mining arrangements. He might add that some blocks similarly situated had been withheld, on what principle he could not tell. As soon as the Mining department made its report, he would have the allotments against which there was no objection offered for sale. He would also inquire into the complaint as to the inequality of price.

UPPER MURRAY RAILWAY.

Dr. MACARTNEY asked the Minister of Railways if he would lay on the table a return, showing the names of the persons from whom the land required for the North-eastern Railway was proposed to be purchased, the quantity purchased from and the price per acre to be paid to each of them respectively?

Mr. LONGMORE said there would be no objection to supply the return as soon as it could be obtained. At present, the owners of the land proposed to be purchased were not all known. No land had yet been purchased.

LOCAL LAND BOARDS.

In reply to Dr. MACARTNEY, Mr. McKEAN said arrangements had been made for a board to sit at Port
Albert, to hear and decide on any disputes which might arise in connexion with land selections in South Gippsland.

MINERALOGICAL EXHIBITION.

Mr. MACKAY inquired of the Minister of Mines why the exhibition of minerals in the Exhibition-building had been closed to the public after having been kept open only a few hours? He could not understand why the inspection by the public of a valuable collection of minerals, made for the special purpose of imparting information in a colony where practical instruction in mining was so much needed, should be made altogether subordinate to the gratification of the love for pomp and ostentation entertained by those who took part in the opening ceremonial. Permission was given in May last to hold the exhibition, and therefore he was surprised to find that it should be closed on the first day merely, as he understood, to allow of the holding of a bazaar in aid of the funds of the Benevolent Asylum.

Mr. J. T. SMITH said that for some time past it had been the desire of the Mining department to have a public exhibition of the specimens which it had collected during a series of years; and, although it was anticipated that the Exhibition-building would shortly be required for other purposes, the exhibition was opened the other day in the presence of the Governor and those of the public who thought fit to attend. Afterwards it pleased the trustees of the Public Library to close the doors.

Mr. McCULLOCH thought the House would not be satisfied with the bare intimation that the trustees of the Public Library had thought fit to close the doors. He would like to know whether the Chief Secretary intended to put himself in communication with the trustees, or what action he proposed to take in the matter?

Mr. MACPHERSON said he was glad the honorable member for Mornington had given him an opportunity of stating more at length the circumstances of this case, which his honorable colleague (the Minister of Mines) was unable to do. He was asked recently by the committee of the Benevolent Asylum to obtain, if possible, the use of the Exhibition-building for the holding of a bazaar; and, feeling that the undertaking was in the cause of public charity, he consented to lend his aid, and he was glad to say that the trustees granted the building for the purpose. A further requisition was made to him to endeavour to obtain the use of the building, from the present time until the time for opening the bazaar, for the purpose of lectures and concerts, to be given with the view of raising funds for the same object. He undertook to do so, and the trustees had also consented to this proposal. The mineral specimens would remain in the building, and proper precautions would be taken against their receiving any harm.

Mr. McCULLOCH inquired if the Chief Secretary intended to take action with regard to the control of the building? He considered that some change in reference to that control was desirable.

Mr. MACPHERSON said he had already stated to the House that this matter was under his consideration. On the last occasion he expressed his firm belief that, to carry out the trusts as proposed by his predecessor, it would be necessary to ask one of the present trustees to resign. The late Chief Secretary then suggested that the whole of the trustees should resign. But he was not prepared to ask the trustees to do that. He considered the country owed something to the trustees. They had devoted their time and their knowledge to the advancement in the colony of the fine arts and kindred matters; and he thought it would be ungracious to ask any of them to resign merely that their number should be increased. If a commission could be appointed which would not interfere with the present trustees, the Government would have no objection to appoint such a commission. His impression was that a body of gentlemen, to occupy a footing similar to that of the present trustees, could not be appointed except under an Act of Parliament. However, before adopting any measures whatever, he intended to take the best legal opinion that could be obtained on the subject.

Mr. MACKAY asked if the Chief Secretary had observed, in the report of the Technological Commission, that the use of the building had been solicited for the exhibition of the matrices of certain minerals, and had been refused?

Mr. MACPHERSON said the matter had not come under his notice.

TELEGRAPH DEPARTMENT.

Mr. KERFERD inquired of the Chief Secretary if it was true that a charge of divulging the contents of a press message had been made by one of the Ballarat
papers against the officials in the Ballarat Telegraph-office; also, if it had been found, on inquiry, that there was any foundation for the charge?

Mr. MACPHERSON said the charge was made against the Melbourne office, and was found, on inquiry, to be without foundation.

Mr. KERFERD asked the Chief Secretary when the report of the board appointed to inquire into the alleged irregularities in the Telegraph department would be ready for presentation, and whether a copy of the correspondence that led to the appointment of the board would be laid on the table of the House?

Mr. MACPHERSON said he did not know when the report would be ready, but he had no objection to produce a copy of the correspondence.

THE PILOT SERVICE.

Mr. KERFERD called attention to the pilot system of Victoria, and asked the Minister of Customs if he would cause inquiry to be made with the view of ascertaining whether a better system could be devised. The honorable member observed that the Pilot Act of Victoria was modelled after the Imperial Act, 17th and 18th Vict. c. 104, which regulated the whole pilot system of the United Kingdom, but it appeared that many of the safeguards secured by the Imperial Act were not to be found in the colonial Act. The colonial Act provided for the creation of the Pilot Board of Victoria, and empowered that body to make regulations for the guidance of the pilots. The regulations so framed provided that there should be two pilot companies, one stationed inside and the other outside Port Phillip Heads. Each pilot boat carried seven or eight pilots; and the practice was that when the boat outside exhausted its number of pilots it came inside and the other went out. Now the complaint was that there was no competition among the pilots, and that, owing to the approach to the Heads being so wide—extending from Cape Otway, on the one hand, to Cape Schanck, on the other—it was almost impossible for one boat, unless it kept very near the Heads, to intercept ships. Now neither the Victoria Tower, an iron vessel which went ashore recently on the Cape Otway side of the Heads, nor the Formosa, another vessel, which went ashore on the Cape Schanck side, had a pilot on board; and it was contended, by those who felt an interest in the question, that such disasters would be prevented, to a great extent, if competition were permitted among the pilots, and if the pilot boats went further out, so as to reach vessels before they were exposed to the greatest danger. Iron vessels, the number of which appeared to be increasing every day, were liable to the risk of a variation of compasses, in which event they might run ashore, as in the cases he had mentioned, without the captain having the least idea of his position. But, if a proper competition prevailed among the pilots, the pilot boats would go further out, and thus the danger of these ships running ashore would be lessened. Again, the Imperial Act contained safeguards against the pilot having an interest in supplying a ship with any material, or in any way adding to the expense attendant on the vessel coming into port. Here, however, when a vessel came inside the Heads, if she did not use a steam-tug, the full amount of pilotage was charged; and, if she did use a steam-tug, one-third of the pilotage was deducted. Now this arrangement furnished a strong inducement to the pilots not to have vessels towed up the bay; and yet, for want of towage, many vessels had gone ashore after coming inside the Heads with the pilot on board. Both in the United Kingdom and the United States there was the most active competition on the part of pilots. In fact every inducement was held out to them to incur risks with the view of affording facilities to ships entering ports. He called attention to the matter more with a view of impressing upon the Government the necessity for an amendment of the Pilot Board regulations, and, if those regulations could not be amended, for the removal of the present Pilot Board, and the appointment of other persons in their stead. It was absolutely essential, with the view of protecting human life, that, in a colony which hoped for and expected the frequent arrival of ships laden with immigrants, the risk incident to the coming of such vessels into port should be as slight as possible. He did not trouble himself about the question of cargo, because that was provided for by insurances; but he submitted that it was imperative, for the protection of human life, that the pilot regulations of the colony should be as perfect as possible.

Mr. COHEN concurred in most of the statements just submitted. Since he had been in office he had made anxious inquiry
into the working of the pilot system, which, in his opinion, was capable of amendment. In all probability some action in that direction would be taken at the earliest opportunity. Possibly the Government would amalgamate the Pilot and Steam Navigation Boards. At all events, they would give their earnest consideration to the whole matter.

PUBLIC GARDENS.

Mr. F. L. SMYTH drew attention to the want of seats in the public grounds of Melbourne, particularly the Botanical-gardens, Fitzroy-gardens, and the Richmond-park; and asked the Minister of Lands if the want would be supplied?

Mr. McKean observed that the district bailiff had been instructed to obtain the pattern of a neat iron seat, and to call for tenders for the supply of a hundred.

NEWSPAPER POSTAGE.

Mr. BUTTERS inquired whether the Government intended to abolish the tax charged for the transmission of newspapers? The question involved the dissemination of information, which he thought should have precedence over any mere consideration of revenue. The ignorance, with regard to the colony, prevailing at the present time in England, on the Continent of Europe, and elsewhere, was most remarkable; and he thought if the Government were to set aside £100 per month for the purpose of sending home something like ten thousand colonial newspapers, showing the favorable position of the operative classes here, for distribution among mechanics and other public institutions, they would indulge in a wise and profitable expenditure.

Mr. MACPHERSON admitted the desirability of amalgamating the post-office savings banks and the ordinary savings banks, or placing the latter on a different footing from what they occupied at present, and promised that the Government would consider the matter. An Act of Parliament would probably be necessary to accomplish the object in view.

EXHIBITION OF FINE ARTS.

Mr. MACPHERSON, in compliance with an order of the House (dated November 3), laid on the table a return relating to the late exhibition of fine arts in Melbourne.

GOVERNORS OF GAOLS.

Mr. BOWMAN asked the Chief Secretary if it was his intention to carry out a promise made by his predecessor, that the head turnkeys of the Ararat and Maryborough gaols should be gazetted as governors? The honorable member remarked that the officers in question occupied an invidious position, being virtually governors, while their actual status was that of head turnkeys.

Mr. MACPHERSON replied that, the House having decided that these officers should rank as governors, steps would be taken to give effect to that decision departmentally.

PETITIONS.

A petition was presented by Mr. T. Core, from the Brunswick Tent of the
Independent Order of Rechabites, in favour of the Wines, Beer, and Spirits Sale Statute Amendment Bill; and a petition was presented by Mr. WHITEMAN, from James Ross, late a weigher in the Customs department, praying the House to cause an inquiry to be made into his case.

MR. PATRICK SULLIVAN.

In reply to Mr. CASEY,

Mr. McKEAN intimated that an inquiry would be made into a complaint made by Mr. Patrick Sullivan, of the Axe Creek, of undue interference on the part of the surveyor of the Strathfieldsaye Shire Council, in connexion with an application under the 42nd section of the Land Act.

ADMINISTRATION OF THE LANDS DEPARTMENT.

Mr. McCAW asked the Minister of Lands when he would lay on the table the return ordered by the House on November 10, relating to certain charges of corruption in connexion with the administration of the Lands department?

Mr. McKEAN remarked that the report of the select committee, laid on the table on the previous day, recommended that a continuation of the recent inquiry into the administration of the department should be continued by a royal commission. That report would be taken into consideration next week, and he had no desire to take the necessary steps to appoint a royal commission until it was discussed.

MAIL GUARDS.

Mr. BOWMAN asked the Chief Secretary if it was a rule in the Post-office department to make a deduction from the salary of the mail guards when incapacitated a week or so from illness? The honorable member said that the mail guards did half as much more work as the guards of ordinary railway trains, and that it was a great hardship upon them to be subjected to deductions for illness caused by overwork.

Mr. MACPHERSON intimated that it was necessary to make deductions in order to put a check on shams.

PORTLAND AND HAMILTON RAILWAY.

Mr. BUTTERS asked the Minister of Railways when he would (in compliance with the promise of his predecessor) cause the survey of the railway line from Portland to Hamilton, already made by private subscription, to be verified by the Govern-

ment surveyor? The honorable member said that a large amount of money, raised by private subscription, had been expended on a survey of the proposed line, and that estimates of the cost of the line and the probable revenue to be derived from it had been prepared. He urged that the matter ought to receive the attention of the Government.

Mr. LONGMORE stated that he could find no record of the promise to which the honorable member referred. It was, however, the intention of the Government, during the recess, to have all the railway lines which had been proposed examined carefully; and he had no doubt that he should be able to satisfy the honorable member with reference to the line from Portland to Hamilton.

MR. HANIFY.

Mr. ASPINALL asked the Chief Secretary what was the cause of the delay in cancelling the dismissal of Mr. Hanify, which had been determined upon by the late Government, after the papers had been referred back for their consideration by resolution of the House; and when the cancellation would take place?

Mr. MACPHERSON said that he believed the late Government arrived at the conclusion that Mr. Hanify's dismissal could not be cancelled unless he complied with certain conditions. Those conditions appeared to be reasonable, but Mr. Hanify had not complied with them. The present Government could not decide what action they would take in the matter until they had time to give it due consideration.

WATER SUPPLY DEPARTMENT.

Mr. BLAIR moved—

"That there be laid upon the table of this House a detailed return, showing the amount of the expenditure incurred by the officers of the Water Supply department, for travelling and hotel expenses, hire of horses and conveyances, personal maintenance, and miscellaneous expenses, from the 1st January to the 30th September, 1869."

Mr. F. L. SMYTH seconded the motion.

Mr. FRAZER complained of the motion appearing on the notice-paper as unopposed. Before consenting to it, the Government ought to have ascertained the views of the late Minister of the department, and of the Chief Engineer for Water Supply, with regard to it. He (Mr. Frazer) regarded it as of an insulting character.

The motion was agreed to,
THE REFRESHMENT ROOMS.

Mr. J. T. SMITH moved the adoption of the following recommendations contained in a report of the Refreshment-rooms Committee presented on March 10:—

"That the strangers' room be appropriated to gentlemen employed in reporting, and other persons necessarily attending the proceedings of Parliament; but that during the sittings of the House no strangers, unless the reporters, be admitted.

"That in future the stables be kept exclusively for the convenience of Members and ex-Members of Parliament, and the officers of the same."

The honorable member explained that the committee consisted of members of both Houses, and that the report had already been adopted by the other House. Complaints had often been made of the annoyance caused to members by strangers being allowed to frequent one of the Refreshment-rooms.

Mr. KING seconded the motion.

Mr. FRAZER opposed it.

Captain MAC MAHON urged that it would be very inconvenient to deprive members of the opportunity of taking any friends to the refreshment-room set apart for that purpose. He had seen nothing to complain of in connexion with the management of the Refreshment-rooms.

Mr. McLELLAN said that if honorable members were compelled to go outside the walls of the House to obtain refreshment, whenever a friend visited them, the numbers on a division list would be materially affected.

Mr. KING remarked that, if the recommendations contained in the report were not adopted, the committee would not be responsible in the event of future complaints being made as to the way in which the Refreshment-rooms were conducted.

Mr. JONES thought that the Refreshment-rooms ought to be confined exclusively to members.

Mr. WHITEMAN proposed that the report be referred back to the committee.

Mr. KERFERD seconded the amendment.

Mr. LANGTON expressed regret that some members of the committee took such little interest in their duties that they never attended the Refreshment-rooms.

Mr. FRAZER urged that greater attention should be paid to the management of the stables.

The amendment was adopted.

UPPER MURRAY RAILWAY.

The House having gone into committee, the discussion on the estimates of expenditure for the construction of this railway, commenced on the previous evening, was resumed.

Mr. JONES remarked that the speech of the Minister of Railways, delivered at the last sitting of the committee, was remarkable rather for what he had refrained from saying than for what he had said. In fact he commented very little on the question which he submitted, and seemed to have determined upon not giving the committee any information whatever as to the change that was supposed to have taken place in the intentions of the Ministry respecting the way in which the public money was to be expended in the construction of the North-eastern Railway. A little while ago honorable members were informed that the cost per mile would be about £9,300, and now they were told that it was to be only a trifle in excess of £7,200. He thought that the committee was entitled to some explanation of this change. The Minister of Railways was quite right in saying that our lines of railway had been very expensive, although he (Mr. Jones) could not agree with him in thinking that they were the most expensive in the world. He would like to know from the Minister of Railways in what way the change was to be made—how the £2,000 per mile was to be saved; whether in road-side stations, in ballast, in sleepers, or how? All the information that honorable members had received was of a negative character. He had looked over what Sir Morton Peto had said about railways, and he had come to the conclusion that there was not the smallest chance of the proposed change being sanctioned unless it was shown to be determined upon on a basis that would be entirely satisfactory to the committee. He was very glad, however, to hear the Minister of Railways say that it was not intended, in the immediate future, to build stations of the expensive character of those on the Ballarat and Sandhurst lines. It would be many years before that character of road-side station was required in this country. He believed the Minister of Railways was wrong in saying that even in a hundred years from the present time the Mooroobool station, for example, would pay; it would in the meantime be better to take it down so as to put a stop to the necessity
of keeping a merely useless structure in repair. So far as the question of durability of heavy as contrasted with light rails was concerned, the committee ought not, in his opinion, to be called upon to determine which was right. The committee did not profess to be an engineering committee, and ought not to be called upon to decide "when doctors disagree." But at the same time they ought to have heard from the Minister of Railways how the proposed saving was to be effected. It was of the last importance that, whilst being asked to assent to the saving of something over £2,000 per mile, the committee should have not only assurance but most indisputable evidence that the lives of Her Majesty’s subjects would not be endangered. The Minister of Railways had said that public opinion appeared to be moving in the direction of light lines of railway. Now, in his view, public opinion had nothing in the world to do with the settlement of a question which could only safely be left to skilled scientific judges. They alone were able to inform non-professional men whether one system, and which of them, was preferable to the other. Not long since a committee was appointed to whom was referred the consideration of the whole question of railway extension in this country; and the present Chief Secretary, as the chairman of that committee, framed a report which was adopted by the committee, and laid on the table of the House. Now for the reason that that report had not been formally dealt with, it became necessary to pass it under review. The present session would one day—either this year or the next—come to an end. ("No.") He thought he was justified in expressing the belief that it would; and as there was no probability of the report of the select committee being brought under the consideration of honorable members in any other form, he believed he was right in seizing the present occasion for glancing at it. The Chief Secretary, as chairman of the committee, said:—

"Heavy traffic which is carried with great speed, through competition among rival companies, requires heavy engines—and as the destruction of the permanent way to a great extent depends upon the speed and the weight of the engine, very heavy rails are used, even steel rails have been adopted in some cases, but, as none of these causes exist here, nor can exist for many years to come—as we have neither rival lines nor heavy traffic, and require only a moderate rate of speed: England cannot serve as a useful model in this matter for Victoria."

Then he found in the report this statement:—

"In the opinion of your committee there are good grounds for concluding that such railways, including rolling-stock and stations, can be constructed for £6,000 per mile in Victoria, suitable for all purposes of traffic for many years to come."

Now he thought that, after such a statement as this, there was a great responsibility devolving upon the Chief Secretary to ask the committee to consider the data upon which he arrived at that conclusion. A reduction had it seemed been resolved on, and on that head the committee should have information. It had been stated, although not in this House, that the proposed reduction in cost was to be arrived at by abandoning one-half of the sum originally allotted for stations, which would amount to £500 per mile; supplementing that saving by omitting all provision for contingencies, which would account for another £500 per mile; and the remainder of the assumed economy was to be achieved by leaving unprovided a corresponding sum required for rolling-stock. With reference to rolling-stock and contingencies, any such pretence at economy was the merest delusion, and should be scouted by the House. This was not a reduction at all; because whether special provision was or was not made for such matters, they must in one way or another be provided for out of the public purse, and it would be better not to pretend that there was a saving if they were asked in any other form to make such provision on the Estimates in some shape. The report proceeded:—

"Your committee are of opinion that judicious economy can be effected in the items of rolling-stock, fencing, gates, goods-sheds, and station-houses, by constructing them in the simplest and cheapest form, and that only when absolutely required."

It would not be gainsaid that there was good sense in that proposition; but he desired to know whether it was the intention of the Government to proceed with the new station at Spencer-street, which was to cost the country £105,000, and which outlay otherwise applied would of itself go a long way towards extending railway communication? It might be said by the Minister of Railways, that they were only asked to vote a certain sum of money for earth-works; but in dealing with that section of the question they were, in fact, necessarily dealing with the whole question. A railway should be constructed in this country nearly as

Now it would be evident that, inasmuch as, according to this authority, £20,000 would have been saved if it had not been lost on parliamentary contests—a state of things not to be provided against in this country—and inasmuch as it had been determined not to waste our money on stations, and our lands would not cost £700 per mile, there was no reason why we should not make our railways as cheaply as that over which Earl Lucan presided. There were no engineering difficulties along the line proposed to be traversed by the North-eastern Railway, that could not be as easily overcome as those on the line referred to in the opinion he had just quoted. In other words, he meant that the line could be constructed at £6,000 a mile. Mr. William Haughton was the chairman of the Great Southern and Western Railway of Ireland, and he stated—

“That the branch line to Killarney cost about £6,000 per mile, but that the G. S. and W. Railway Company, with proper goods-stations, could not do it under £7,000 per mile on their lines.”

Now “proper goods-stations” meant nothing more nor less than a very large item of expenditure, and in the present case it was not intended that there should be any great outlay either on goods-stations or stations of any other kind. He (Mr. Jones) did not see why there should be. The policy of the State was to make good lines of railway through the country, and allow the people to settle and form centres of population. After that had been accomplished, the Legislature might very properly be called upon to assume the further duty of building stations. It had already been discovered that the mere erection of railway stations would not create townships—witness the Diggers-rest and other stations, which were about as useless pieces of expensive work as could well be imagined. Mr. Murland was next referred to in the report, and he said:

“That they had not such heavy rails in Ireland as in England, that they had not yet had occasion to renew them, and that the lines were in excellent repair. Mr. Dargan stated that a line can be kept much cheaper with a light traffic than with a heavy traffic.”

Now there was no doubt that lines of railway and public highways would last much longer in repair if it were not for the absurd practice of driving over them. They need not have gone to Mr. Dargan for that piece of information. Then Mr. Stewart, who was the secretary to the London and North—

Mr. Jones.
western Railway Company for nearly twenty years, was referred to in the report as having stated it as his opinion—

"That cheap lines, on the ordinary gauge (4 feet 8½ inches), are the only lines that will pay in agricultural districts."

 Practically the North-eastern line proposed to be constructed would pass through an agricultural district or through no district at all. It was an agricultural as well as a pastoral district, and would give a very fair return for the outlay, provided that outlay was kept within reasonable limits. The committee might feel tolerably certain that the work done by the Engineer-in-Chief (Mr. Higinbotham) would be well done. No honorable member would attempt to impugn the character of that gentleman as a man of business, in his capacity as an engineer; but he (Mr. Jones) thought he was inclined to be extravagant. There was abundant evidence of that in the lavish outlay that had been indulged in at Woodend, Sunbury, and other places. A gentleman placed in that position of responsibility should regard an expenditure of the State funds as he would regard an expenditure of his own private means, and watch it with every caution. He trusted that for the future the greatest care would be observed in avoiding any such ill-advised, misplaced expenditure of the public money as had been too much the rule in the past. The outlay necessary for the construction of a railway to Wangaratta and Wodonga-flat would very likely be not only reproductive, but would result in extending the borders of this colony, by commercial conquest, of course. But at the same time that outlay must be economized to the utmost possible point consistent with present requirements and safety, so that encouragement should be offered to those who might be inclined to embark their capital in that and in kindred enterprises. For it would be absurd to suppose that the claims of the Western district, Portland, and other portions of the colony to railway communication should be ignored, or indefinitely postponed, as was proposed; and it was, therefore, essential that at the outset, as it were, of this system of settlement of the more distant parts of the colony by means of railways, a rigid but wise economy should be observed. Although it might be argued that the money borrowed under the Railway Loan Act was to be expended, if at all, exclusively on the construction of the North-eastern line, yet with a view to future works of a similar character to be carried out, as occasion demanded, in other portions of the colony, it was essential that care should be taken that no greater expenditure than was absolutely necessary should be incurred upon those works, because by such an exercise of caution the public credit would be conserved and enhanced for future occasions, in the money markets of this and other countries. The traffic of that part of Victoria was not, he thought, likely to be of a character to demand exceptionally heavy lines of rail. The most valuable data on this point had been supplied to the committee by the honorable member for the Murray Boroughs (Mr. Hanna); and even if the amount of traffic estimated by that honorable member were increased cent. per cent., one train a day would convey all the traffic that was likely to pass along the line for many years to come. But the people would not be content with fewer than two trains a day, and for this reason—in addition to others that he had assigned—he submitted that it seemed desirable to use light rails and trains. The report said:

"Your committee would direct your attention to the fact that the net tonnage due to the Sandhurst and Echuca line for 1866 is under 27,000 tons, carried by two trains each way per day ordinarily, with extra trains during very busy times. That to provide for the maximum amount of traffic heavy engines are employed on 72 lb. rails, whereas double the amount of regular traffic could be carried, with gradients of 1 in 50, by 25 ton engines on 50 lb. rails, in two trains per day each way, with the same expense and damage to the permanent way."

He contended that after having expressed, on good evidence, so strong an opinion as this as to what ought to be done, the Chief Secretary was bound to show the committee how it was that he had changed his opinion since he acted as chairman of the select committee from whose report he had been quoting.—(Mr. Macpherson.—

"I have not changed my opinion.") He was glad to hear the Chief Secretary say that; for, if he had, it would have devolved upon him to explain how the change had arisen. The committee might, at any rate, assume that the Chief Secretary and the Minister of Railways were of opinion that lines of railway suitable for the present requirements of this country could be constructed at a cost of £6,000 a mile, and it would be difficult for them to advocate and support a theory that they should cost £7,222 a mile. The Minister of Railways would remember that he
favoured the committee with a quotation—valuable perhaps, but rudimentary in its character—tending to show that light rails were most durable and serviceable. If he had authenticated the quotation by a date, and the name of the author, it would have been so much the more or the less valuable as the case might be; but he had not done so, and the committee were unable, therefore, to form any opinion as to the reliability of the evidence adduced. Now the report proceeded thus:—

"The Engineer-in-Chief, Mr. Higinbotham, considers it advisable to provide for the maximum amount of traffic with as few trains as possible, in order to work a line economically, and that to do this powerful engines and a permanent way, with rails of 72 lbs. per yard, are necessary where there are heavy gradients, and in this Mr. Watson and Mr. Greene, resident engineers on the Victorian Railway, concur with him."

It was a remarkable circumstance, and one to which due weight should be given, that the only persons who corroborated the estimates of the Engineer-in-Chief were Mr. Watson and Mr. Greene, who occupied immediately subordinate positions to that officer. He did not for a moment suppose that either of those two gentlemen had said anything they did not believe in, or that the Engineer-in-Chief brought any pressure to bear upon them; but the fact remained that they were resident district engineers on the Victorian Railway, and that they concurred with their chief, whilst on the other side of the question there were three engineers of undoubted capacity whose evidence went directly to upset that given by Mr. Higinbotham as to the cost that ought to be incurred in constructing our lines of railway. The Legislative Assembly of Victoria, not being an engineering or scientific House, could not possibly determine the question for itself, but must arrive at its verdict on the evidence submitted. The report went on:—

"Mr. Higinbotham, Engineer-in-Chief, is of opinion that a light line of railway (rails weighing 40 lbs. per yard) might be constructed in Victoria, through an ordinary line of country, for about £6,000 per mile, but would not recommend it where there are steep gradients and a heavy traffic."

That was merely a speculative opinion as to something that might or might not be done. The committee further reported:—

"Mr. Mais, Engineer-in-Chief, South Australia, states that light lines have recently been constructed in South Australia, including stations and rolling-stock, for about £5,000 per mile."

He thought that that evidence ought to give the committee a fair idea of what could be done in this country; for Mr. Mais had a considerable amount of experience under Mr. Higinbotham, and learned, no doubt, all that Mr. Higinbotham could teach him. We might require in this country superior rolling-stock, which would enhance the cost of lines; but even then, judging from what had been done, it would be safe to assume that £1,000 per mile would do all that was required for heavy traffic. Now in the next paragraph the report proceeded:—

"Mr. Zeal expressed his absolute opinion that a substantial line of railway can be constructed for £6,000 per mile from Melbourne to the Murray."

And if Mr. Zeal had, as he (Mr. Jones) believed he had, been over the whole line of country to be traversed by the North-eastern Railway, the opinion of that gentleman ought to be worth a good deal; and from his knowledge of some of the arts that were indulged in, and some of the practices that were resorted to in order to make our lines of railway the most expensive that had ever been constructed, he ought to be a tolerably competent judge on such a subject as that of which he treated. The next professional evidence referred to in the report was that of Mr. Brady, a civil engineer, who had charge of the construction of 51 miles of railway in Queensland, and he stated:—

"That a substantial line to Albury, with 60lb. rails, could be constructed for £8,000 per mile."

Mr. Griffin, also a civil engineer, stated that:

"He was engaged on the construction of the Varna and Bucharck Railway in Turkey—that its length is 188 miles, and that it cost about £5,000 per mile, including a portion of the rolling-stock; and he believes a substantial line could be constructed for £5,000 or £6,000 per mile in this country."

Mr. Griffin's statement must be accepted cum grano salis, because he had not gone over the line of country through which it was proposed the railway should run. His estimate must be a merely speculative one, and ought not to be set against that of a man of experience and scientific attainments like the Engineer-in-Chief, who had gone over it. He would feel inclined—although he entertained the highest opinion of Mr. Griffin—to place greater reliance on the estimate of the Engineer-in-Chief. But then honorable members must recollect also that they had before them the statement of Mr. Mais as to what had been done, and the statements of Mr. Zeal, Mr. Brady and Mr. Griffin, as to what could be done. Under these
circumstances, he thought the Legislature should, before authorizing the outlay of this money, take care to ascertain in what way the saving was to be effected. There was one portion of the report which deserved the very best attention of the committee—it was that portion of it which related to the table of fares obtaining in this colony. It was stated in the report, and the statement was borne out by figures, that the fares charged in Victoria were the highest charged in any part of the world, not excepting England; and, considering that the railways were constructed with the public money, it was, in his opinion, the plain duty of Parliament to see that they should confer the widest benefits upon the largest section of the people, by placing them—at the lowest possible price consistent with due returns—in a position to travel safely and cheaply. The report stated on this subject—

"There can be no doubt that as railways increase the public demand for cheap carriage will compel a reduction of fares, and, as the wear and tear of the permanent way (whether light or heavy, if the weight of the engines is in due proportion to the weight of the rails) will depend upon the traffic it has to sustain, in the opinion of your committee it is desirable to begin with the least costly permanent way and rolling-stock.

He found that the average fares in England for first-class travelling amounted to 2½d. per mile, whilst those in this colony were 3½d. per mile. In Belgium—where, with the exception of India, the cheapest travelling in the world might be indulged in—the average first-class fare was only five farthings a mile; and so great had been the success of the principle of cheap travelling that the Government of that country had from time to time reduced their rates so as to embrace within their limits of railway communication a much larger portion of the travelling public. The Government of this country should adopt a similar policy; and he believed the rates might at once and safely—nay profitably—be dropped below the English scale. In India, the average first-class fare per mile was 1½d.; in Canada and the States it was the same. In England the average second-class fare per mile was 1½d., and the third-class 1¼ of a penny per mile. In his opinion the committee should have insisted upon the House devoting an early day for the consideration of this valuable report—that the House should have decided that it was time for the Minister of Railways to submit a new railway policy for this colony—such a policy as would enable the people who paid the money, to participate in the advantages of railway communication at something like a reasonable price. It was only by the reduction of the rates, that any hope of making the enterprise remunerative could be realized. There was an adage current on the continent of Europe, that none but princes, Englishmen, and fools travelled first-class. In this country, although the people were not so exclusive after all, they paid no less than 3d. a mile for the great luxury of appearing so. He was persuaded that the question of the reduction of railway fares would force itself upon the minds of the people, whether the House liked it or not. He was afraid that hitherto the policy of the Railway department, had not been in a direction which was likely to popularize it. If it had been managed with a due regard to the interests of the people they would not have seen the third-class carriages abandoned. He feared the policy had been more to consult the convenience of the few employed in the department, who wished to pillow their heads comfortably on red tape, than to consult the reasonable demands and requirements of the public. Still the question remained unsolved in what way was the proposed reduction to be arrived at? The Engineer-in-Chief stated before the committee, that the conclusion that the North-eastern line would cost £9,385 per mile, he arrived at "from plans and sections carefully prepared." He also stated that he was "quite prepared to lay all the particulars before the committee." Now the particulars which were ready for the Railway Construction Committee should be ready for this committee. They should be particulars ample and specific, which would enable the committee at once to ascertain whether the proposed reduction was to be of such a character as would make the North-eastern Railway less trustworthy than a railway should be. The Engineer-in-Chief went on to say—

"I gave an opinion that £1,000 per mile would be required for stations. I gave that as what I considered a safe estimate for the Government to take in coming to a conclusion as to the amount of money to be raised for the line, and I feel it my duty in every case to state to the Government, when I am required to give an estimate of the cost of a work, what I think to be the outside cost. Nothing would be easier than for me to give a low estimate to the Government; but I should not be treating the Government correctly, or acting with a due regard to my professional character in doing so. I give the outside cost."
Was the Engineer-in-Chief right then? Was he wrong now? Clearly some explanation was required. If it would be wrong for the Engineer-in-Chief to state anything other than the outside cost, how came it that the committee were now told that the railway could be constructed for £7,200 per mile? Was that estimate above the mark or below it? The Engineer-in-Chief also said:

"If, instead of spending £1,000 per mile for stations, the expense can be reduced to £600 per mile, the margin is still a small one. It is £500 a mile on 181 miles; that is to say, it is £90,000 upon an expenditure of £1,720,000. I say that no engineer, with any regard to his character, will run his estimates so fine as to say—'I can foresee." Mr. Bayles, a member of the committee, stated—"There may be a saving in the station accommodation because you have taken the outside limit for your calculations." The reply was—"Yes." Mr. Bayles then said—"Is it not reasonable for us to suppose that you have taken the outside limits for all other constructions?" The answer to that was—

"No, for this reason, that the other constructions—the amount of earthwork, the bridges, and permanent way and ballast, and fencing and culverts—you can estimate with precision. I wish to state at once that, upon all these matters, I have, in advising the Government upon the cost of the line, left I believe a safe margin, but nothing like a margin of 50 per cent. For instance, the Government may be called upon to put a station in a position where it appears to me at present that no station ought to be placed. On the other hand, on the opening of the line there may be new centres of population, or the existing centres of population may become very much larger and more important than they are at present; under those circumstances additional accommodation will be required. All these possibilities I have endeavour to provide for in putting down £1,000 per mile for stations, but that item of stations is just the very vaguest in making an estimate, especially in a new country."

No doubt making an estimate in a new country was more difficult than making an estimate in an old country, although it appeared to be a matter of figures in the other case as in the other. But when a gentleman of the scientific attainments of the Engineer-in-Chief stated that he had made his estimate "with precision"—that, so far as other items were concerned, he had taken no such margin as he had taken in the matter of stations—honorable members were entitled to inquire—"What is the meaning of this reduction from £9,885 to £7,222 per mile?" They were entitled to some further and fuller information on this head. They could not, in duty to the colony, be content with a statement which might merely induce them to spend £7,000 per mile on railways, and then compel them to spend perhaps as much more to make those lines fit for traffic. He thought it would be wiser to pause now, in order to obtain further information before voting this sum of money. Certainly it would be false economy to proceed to the construction of railways without first of all being satisfied that the railways would be of such a character as to be worked economically with advantage. The highest authority obtainable on railway matters in the United States stated that—

"Few roads in the United States have reached an expenditure for construction equal to that of the least expensive roads of Great Britain; and the average cost of all those of the United States is estimated at less than 40,000 dollars per mile. The effect of the more finished condition of English roads is shown in a remarkable degree in the comparative cost of maintenance of way, or of keeping the roads in working order, and of the running expenses, as exhibited in the following table, prepared from the results of the working for 1855:

<table>
<thead>
<tr>
<th>Name of Roads</th>
<th>Average cost per mile of track and running way</th>
<th>Average cost per mile of station and main building</th>
<th>Name of Roads</th>
</tr>
</thead>
<tbody>
<tr>
<td>London and North-Western</td>
<td>1,920</td>
<td>101.7</td>
<td>48.85</td>
</tr>
<tr>
<td>Eastern Counties</td>
<td>1,188</td>
<td>133</td>
<td>39.28</td>
</tr>
<tr>
<td>London and Brighton</td>
<td>1,394</td>
<td>193.8</td>
<td>34.32</td>
</tr>
<tr>
<td>Great Northern</td>
<td>628</td>
<td>263.7</td>
<td>70.19</td>
</tr>
<tr>
<td>Average of New York roads</td>
<td>5,542</td>
<td>10.30</td>
<td>65.97</td>
</tr>
</tbody>
</table>

Looking over these figures it was as plain as anything could be that people who made cheap lines of railway must be content to have those cheap lines perpetually undergoing repair—that they must expect their lines to be useless for traffic for a considerable portion of the working year—that they must take from revenue what they did not in the first instance expend in capital. Therefore it was to the credit of the Engineer-in-Chief that he should have contended, from first to last, for good roads.
But it was essential for honorable members to know the meaning of the change from £9,000 to £7,000 per mile—in what way that economy had been arrived at. The same authority went on to say:—

"In 1857, the average expenditures for maintenance of way, per mile run, on the English roads, were estimated at 10'56 cents; in France, at 7'8 cents; and in the United States at 25 cents. In the consumption of fuel a difference quite as striking is observed. In Great Britain, the distance run to the ton of bituminous coal or of coke varies from 73 to 116 miles, the latter having been attained for a full year on the Cork and Bandon line in Ireland, the fuel being coke; a fair average is considered to be 77 miles. On the Baltimore and Ohio road, in 1857, for every ton of bituminous coal consumed, the number of miles run was 33½, and on the Reading road for every ton anthracite, 19½ miles."

Now, while they were careful that they did not incur a lavish expenditure, they must be careful also that they did not run into the extreme of a total disregard of the means by which they might obtain the best possible roads for the colony. They should endeavour to discover the golden mean, while securing safety for persons and property. They had a right to insist that there should be no expenditure of money on mere ornamentation—that the money should be expended on the road itself, which could not be a bad outlay, and which was not likely to be an extravagant outlay, allowing for the competition certain to arise among tenderers for such works, and assuming that the works were open to be contracted for in such sections as would permit a large number of persons to enter into competition. He believed that, in America, lines of railway had been constructed at £2,000 per mile, but such lines had been unmitigated failures from first to last. They had been the means of bumping passengers to pieces, and were always undergoing repair. Sir Morton Peto, that excellent authority in all matters of railway construction quoted by the Engineer-in-Chief in support of his proposition that well constructed railways, although dear, were a far better investment for national capital than ill-constructed railways, however cheap they might be, said—

"The outlay upon the American lines has been from £8,700 up to £15,000 per mile, whilst the average cost in Great Britain has been nearly £40,000 per mile. In this estimate of cost we have of course to consider the relative character of the lines. The American lines are almost invariably single, whilst the English railroads are mostly double lines."

While on this question of double lines, he should like to know from the Minister of Railways whether there was any intention on the part of the Government to act on the absurd suggestion thrown out outside to take up the second lines on existing railways to save an outlay of something like £2,100 per mile, by using the same material on the new railways? He hoped that any false economy, any extravagant waste of means, like that, would not be thought of, except to be reproved, by any gentleman occupying the position of Minister of Railways. Sir Morton Peto went on to say:—

"In other respects the American railroads are as a rule very inferior to ours. A railroad has been defined to consist of earth-works, sleepers, and rails. The earth-works of the American railroads are, for the most part, of a very simple character. From the generally level surfaces through which their lines are made (in the prairie districts especially) little has been required but to lay down the track, and I am afraid that the proper preparation of the road-bed has not always been as well attended to as it should have been. The timber for the sleepers has been obtained from the roadside, or from the woods in the immediate neighbourhoods. The supply has usually been abundant, and it has immensely contributed to the economic construction of the road, enabling the contractors to lay down sleepers at much more frequent intervals than we find them in Europe. The rails have been usually obtained from England, Wales, or Scotland, and I believe that in many cases the cost of the iron has formed in America the largest proportion of the cost of the construction of the lines. The rails are generally too light. Not only the whole cost of maintaining the roads, but a very considerable proportion of the cost of their construction, has in the case of the majority of the lines in America been thrown upon the revenue. . . . Where lines are imperfectly constructed in the first instance, where they have to bear all the effects of climate, and of wear while in indifferent condition, it is quite obvious that the cost of reparations even in the very early stages of their working must be a serious burthen. And where all this is thrown at once on revenue, adequate dividends cannot be expected."

He trusted that the department of Railways would consider the propriety of using the jarrah timber of West Australia, instead of red-gum for sleepers. The former would give as many years of wear as the latter would give months. (Mr. Longmore—"No.") He believed the Minister of Railways was wrong. At all events in any case in which timber had been exposed to sea wear—to the ravages of marine insects—jarrah timber was far superior to our native woods, and the question well deserved attention. It would be good economy to obtain the best kind of timber for sleepers. It now became necessary to consider the light which had been thrown upon the management of the Railway department from the
inquiry instituted by a board which was appointed to look into the management of the railway workshops at Williamstown. He could have desired that the matter had come before the House to be dealt with apart from this question; but it would not do for the committee to proceed to deal with railway expenditure in any form without considering the mass of evidence which had been submitted to the country by the Railway Workshops Board. It was a mistake from the first, an expensive mistake, to have those workshops at Williamstown. They ought never to have been there; and the sooner they were removed the better would it be for the colony at large. It was only right that all the railway works should be concentrated at Spencer-street, where there was plenty of space for the purpose, and where more efficient supervision could be obtained than elsewhere. An initial mistake in the conduct of the Railway department was that the Engineer-in-Chief, who could not possibly control the work of the shops at Williamstown, was practically placed at the head of those workshops, and might be held responsible for all the malversation and misconduct brought to light by the Railway Workshops Board. Honorable members had nothing to do either with Mr. Houghton or Mr. Christie. Those gentlemen might have done wrong or they might have done right. But the Engineer-in-Chief, the permanent head of the department, defended all that they had done. Therefore the committee had to consider whether or not it was the duty of the Government to take some action to relieve a gentleman so eminent as the Engineer-in-Chief from a position of responsibility in connexion with the workshops at Williamstown, over which he exercised no control for the interest of the general public. The report of the board stated—

"Most of the witnesses testify to a lack of skill and energy on the part of both Mr. Christy and Mr. Houghton. The general tenor of their evidence is that fitters in the carriage shop have been malversators; that fitters in the workshop have been trying to make a sow's ear out of a silk purse—thus reversing the old adage—in requiring an engineer to do work below his qualifications. These workshops should be supervised by men who understood the work, who would be able to keep in check a certain number of head men or foremen, and who must be held responsible both for the quality and the quantity of the work executed. To put a skilled craftsman to do mere labourer's work, to allow materials to be destroyed, or to be incapable of teaching what was required to be taught in the branch in which he professed to be an adept, should be proof positive of a man not being adapted to, and that he ought not to find a refuge in, the workshops at Williamstown. And yet all kinds of experiments, except experiments for the public good, were being made in those workshops. For instance, while an ordinary Christian man was able to get a velocipede for a few pounds, the country was taxed to the tune of hundreds of pounds in order to make a velocipede that would do everything but travel. The department had all kinds of machinery that it did not want. There was a bullion van which had never been used. Then there was a meat-truck, built of course according to specification, at a cost of about £200, which, when first imported, would not run at all. When it was made to run it would not go under the first bridge; and when it was raced so as to run under the bridges, and was employed for the first time to convey meat from Sandhurst to Melbourne, all the people who had meat brought by it protested that they would rather do anything than have their meat conveyed to town in that way again. Therupon the meat-truck
was abandoned. No attempt whatever was made to ascertain whether it could be made available for the carriage of "rags, bones, and bottles" or anything else; and consequently it had been lying for seven years in ordinary at Sandhurst, where it was likely to remain until it rotted—a monument of the stupidity of the system of management. It appeared that there was no check upon importations. One thing might be ordered, and another might come, and there was no remedy—all they had to do was to open their mouths and shut their eyes, and take whatever might be sent them. The report said—

"With regard to the importation of plant, bad in pattern, indifferent in material, and in want of alteration, there has been much evidence laid before the board. Formerly these things were sent out at enormous freight and charges (under the inspection of an eminent engineer, deceased), in a state so scandalous as only to be accounted for by the inspecting officer's other and important engagements interfering with his duty as engineer-agent for this colony; nor has the evil been altogether abated to the present time, according to the evidence of the Engineer-in-Chief, who says—"Mr. Christy has no choice, except to receive engines that are sent out ; but if the engines come out in imperfect order, as they have frequently done, Mr. Christy reports to that effect, and the attention of the agent at home is immediately called to the matter; and, "no one in the colony can refuse to receive an imperfect engine, because it has been passed at home by the inspecting officer.""

Well it appeared that this inspecting officer, this eminent engineer, condescended to accept from the colony a fee which it was plain, from the evidence taken by the board, he was at no pains to earn; he took the money and did not do the work; and the consequence was that, time after time, the colony got any quantity of bad material. The department appeared to be constantly making all kinds of experiments at the public expense without any return whatever.

"Among other experiments at the public expense," continued the report, "has been the making of a 'spark-arrester,' at a cost of £90, which, according to one witness, when half made was thrown aside; or, as Mr. Houghton explains it, not answering expectation, was used up as 'material and applied to other purposes.'"

Particulars will be found detailed in the evidence of 'expansion brackets,' which are alleged to have cost 90 per cent. too much; of an iron or 'Government' house put upon No. 13 engine, said to have been a series of blunders; by one witness, 'to have cost several hundred pounds,' and to be 'not worth more than £5;' and by another to have 'cost about £300' when '£30 ought to have completed it;' of the Ariel, a stationary engine at Geelong, said to have been altered from an old locomotive engine, at four times the cost of a new one, and other cognate matters."

With reference to the iron house, he might say that drawings were made for its erection, but, after some time had been lost, those drawings were abandoned, and others prepared, which also were found unworkable, and put aside; after which the house was built without drawings of any kind, and "working drawings," as they were called, were made after the house had been completed. It was to be presumed that a private individual would not consider that economical. He thought it would be as well to ask Mr. Droop, or some other of those gentlemen who brought something like practical talent to bear on these workshops, whether it would not be possible to take charge of the workshops, by farming them, or at a liberal salary, and make them turn out decent work at a fair price? There was no reason why the "Government stroke" should be such an abomination as it had been in the colony—why it should not give the same value for money as was given in private employment provided there were proper incentives. But the incentive had been toadyism. The man who could flatter most, and not the man who did his work best, was the man most likely to get on in the railway workshops. Many a man endangered his position by being able to do his work, and by having the pluck to point out the blunders committed around him. Another statement in the report was—

"The stocks kept in railway store are pointed out by Mr. Droop (admitted by Mr. Higinbotham and Christy) to be too large, and to require curtailment. It is also stated by Mr. Christy that the removal of the stores would be a saving to the country. In this opinion the board fully coincides."

Well, what were the facts? He believed the railway stores, up to the present time, had cost somewhere between £60,000 and £80,000; and the greater part of the material was not likely to be of any use to the country. There were contractors whose engagement with the Government was to provide whatever material that might be required, in whatever quantity that might be required, and within a certain limited time, the goods were imported in the worst possible way. They were imported by means of agents, over whom the Government appeared to have no control. Everything that those agents thought proper to send out was taken, and kept in store until the material, in the language of the stable, ate its own head off. Why if those stores were thrown into the market they would not fetch £25,000 or
The stores would have been depleted long since, but the fact was that they could not be sold for anything like one-half their cost. Enormous sums had been spent in getting out stores which were of no possible use; notably there were two steam-hammers—a large one and a small one—rusting and rotting, and altogether useless. But these things should not have been imported unless some person was responsible—some person able to say that, when steam-hammers came here, they could be made use of. They were told by the Engineer-in-Chief that it would not pay to use up their own scrap heap, that the material, time, and money had been wasted in the workshops at Williamstown, which, when sold, did not pay the wages of the men who collected it. They were very busy saving candles’ ends, while they were throwing away whole candles—nay, whole packages and boxes of candles. Why if any private employer found his material, time, and money wasted in the fashion that material, time, and money had been wasted in the workshops at Williamstown, he would have to insist on an alteration, or become insolvent. The railway department had a powder-van, weighing, at least, eight tons, which he believed would carry ten tons of powder with the greatest possible ease; it was used about once a week to carry half-a-ton of powder to Ballarat. An engine with power sufficient to draw eight and a half tons was put on to draw half-a-ton of powder. Every kind of vehicle appeared to be provided on the railway. There were four prison vans, but they were seldom if ever used. The report went on to say—

"The question of the proper character, number, and application of tools in the workshops—some of which, though of great value, as in the case of a large steam-hammer, have been lying idle for many years—is one which must be effectively dealt with when the extension of the present railway lines is undertaken and new workshops are constructed."

Now the House was about to enter upon a further expenditure for railway purposes; and therefore the present was a fitting time to call attention to these abuses. He should like to know whether it was intended to carry out the proposed railway terminus at Spencer-street—whether there was to be such an expenditure as £105,000 upon a palace, which would be anything but a palace of industry. He thought that £25,000 or £30,000 would give all the accommodation required now and for the next quarter of a century. It was natural to ask, when it was proposed to expend £105,000 on the metropolitan railway terminus, what superior facilities would be obtained by the expenditure? The fault of the present system of railway sheds at Spencer-street was that they were so disjointed. There were sheds at right angles, and in the most inconvenient position possible, although the place possessed all kinds of natural advantages, of which the department took no account. They were asked to spend £105,000 partly on sheds which might be a little more symmetrical than those now in existence, but which would be just as disjointed. It would appear as if the railway buildings had been planned to suit the requirements of a number of men who had set up in opposition to each other—who had established rival concerns, and were quite willing to undergo considerable personal loss in order to inflict personal inconvenience on all those with whom they might be brought in contact. If that terminus were erected at a cost of £105,000, those who wanted to avail themselves of the facilities of railway traffic would be obliged to walk about for miles, owing to the business being transacted in a number of sheds, instead of under one roof. The question of not having platforms suited to the height of the carriages—the question of not having a system of shunting which would permit carriages to be unloaded, and loaded almost immediately afterwards, without the disadvantage of standing still or being shunted backwards and forwards all the day long—the necessity for obviating inconvenience and danger resulting from improper and inefficient shed accommodation—all these things must be considered by the committee, and honorable members would not discharge their duty to their constituents if they, when asked to sanction this expenditure, did not point out the grievous wrongs which required to be righted. He thought the committee had shown a large amount of consideration in listening to his speech; but the Minister of Railways would not make a speech on the subject, and it was necessary that somebody should do so. The question must be opened up. With reference to the railway workshops, the board went on to report—

"The site and suitability of the workshops themselves must be decided upon without further delay."
The present site has been condemned by every witness, and experts as well as railway authorities have pointed out the necessity of the shops being better placed and adapted to the work that has to be done in them.

The sheds at Williamstown could be used for wool-pressing or the shelter of goods, but for workshops they were just as disjoined as the sheds at Spencer-street. They furnished no facilities for proper supervision. They had cost an immense sum of money merely for the purpose of keeping a small borough right for returning a Ministerial candidate when called upon to do so. The "black brigade" at Williamstown was admirable no doubt for election purposes, but the railway workshops formed too expensive an establishment to be maintained merely as an engineering agency. He trusted the House would indicate to the Minister of Railways that it was time practically to consider whether it would not be more advantageous to have the workshops removed to Spencer-street, where the labour of the colony would be available for being drawn upon, and where the business of the department might be carried on in such a way as to show that the railway workshops and the engineering branch were not necessarily antagonistic to the traffic branch.

The substance of the board's report might be summed up by the following paragraph:

--That in the inception and establishment of a complete system of railway working in a new colony some errors of judgment should have happened, is matter rather of remonstrance than of punishment; and that in a course of operations extending over several years, and dealing with a large quantity of costly appliances, irregularities should have occurred, as well as that energy should have been sometimes misapplied and material indifferently used, cannot create much surprise. In these respects Victoria has suffered, although perhaps hitherto not so severely as rumour may have declared. But if the errors of the past be retrieved by improved action in the future, the loss will not be irredeemable, nor the process very costly. It is in detail rather than in principle that weakness has been shown; and the board believes that a better system of railway operations based on a perfect machinery, combined with better organization, and the superior management which is incident to closer supervision under officers of approved competency, is all that is necessary to remedy defects, and to prevent both grievance and abuse.

One member of the board (Mr. Hanna) was of opinion that the report was not as severe as the facts discovered warranted. There were facts brought out in the evidence taken by the board which would have warranted a much more stinging report—facts which seemed to show that a deliberate system of falsifying accounts had been carried on for years, and was part of the machinery of the department. It did not appear that this system of falsification was carried on for any purpose of spoliation; but it was carried on. The accounts were written up in pencil until the year drew towards an end, and then the accounts were written up in ink in such a fashion as exactly to square everything. A system of bookkeeping like that, affording as it did such facilities for fraud, ought not to have existed in any Government department for a moment.

Mr. Hanna considered it necessary to protest against the report on the following grounds:--

"Because the evidence justifies and demands a report in much stronger terms than that now submitted."

"Because it contains an unjustifiable insinuation that many of the witnesses have been actuated by improper feelings in giving their evidence."

"Because very many important charges which have been proved are not referred to in the report."

Now the bare fact of one member of the board—and that member one who had signalized himself in this country as a good man of business—finding it necessary to protest against the report because it did not sufficiently condemn the malpractices discovered, should be sufficient to convince every honorable member that the report and proceedings of that board ought to be read by him before voting on the present question. He believed that if honorable members did not for themselves sift that evidence thoroughly, with a view to come to a proper and impartial conclusion, their constituents would have a right to accuse them of crying peace when there was no peace, of consenting to an outlay of money without taking proper precautions to secure to the colony a fair return for that outlay. He had no desire that the votes asked for should be refused by the committee. He desired they should be passed. But he contended that the committee were entitled to some further information than they had yet received, as to the way in which the savings in railway construction were calculated upon, and as to the way in which the works would be carried out; and also to some guarantee on the part of the Minister of Railways that he would bring before the House, for definite action, the conduct which had been pursued in the railway workshops, so that the House and the country might have the chance of saying that the bad
deeds which had been done should not be repeated—that evil should not be looked upon as good, merely because that evil had continued in existence for an exceptionally long period.

Mr. MACGREGOR moved that progress be reported, in order that the State Aid to Religion Abolition Bill (for the third reading of which a call of the House was to be made on the following evening) might be passed through committee.

Mr. FRAZER contended that, before progress was reported, the Minister of Railways ought to inform the committee whether the statements contained in the speech of the honorable member for Ballarat West (Mr. Jones) were true or not. The honorable gentleman was bound to defend the officers of the department if they were unjustly attacked.

Mr. LONGMORE said that he did not feel justified in entering, that evening, upon a discussion of the matters referred to by the honorable member for Ballarat West, and the report of the board appointed to inquire into the management of the railway workshops. At the proper time, however, he would be prepared to deal with the whole subject.

After some remarks from Mr. CREWS,

The motion was agreed to, and progress was reported.

STATE AID TO RELIGION ABOLITION BILL.

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

The discussion of clause 4 (adjourned from November 2) was resumed.

Mr. MACPHERSON said that the Government had given a good deal of attention to this clause, which dealt with the lands belonging to the various religious denominations, and, speaking for himself, the more he considered the matter the greater difficulty he found in suggesting any arrangement which would be viewed as equitable by the different denominations. The Government had had some clauses drafted, with the view to carry out the intention of the Legislature, and he would submit them to the consideration of the committee. Certain of the denominations, he believed, were satisfied with the clauses, but two—the Presbyterians and the Roman Catholics—had asked to be excluded from the provisions which they contained. As two denominations, much interested in these lands, desired to be excluded—that was to say, desired no interference with their trusts—he would ask the committee whether it would not be well to strike out this portion of the measure, and postpone the matter until the denominations which desired to have power to dispose of their lands submitted a Bill for the consideration of Parliament which would deal equitably with their rights? The more he looked at the matter, the more necessary he thought it was for honorable members to pause before attempting to carry out the second portion of the resolutions on which the Bill was founded. Of course, after passing those resolutions, the Assembly would be bound in honour to enable any denomination to dispose of the lands held by it, if it submitted a Bill to Parliament for that purpose, at any future time. No doubt the resolutions on which the Bill was founded amounted to a compromise—the denominations, on losing the State grant in aid of religion, were to be allowed to have control of the lands vested in them. Some of the denominations desired to have that control, but others did not; and scarcely two bodies united in saying what should be the precise form in which the control should be handed to them. Under the circumstances, he had no hesitation in expressing his opinion that the Bill should be confined to the abolition of State aid, leaving the lands to be dealt with hereafter, in the spirit of the resolution already adopted.

Mr. BURTT remarked that, although one or two denominations might not desire to dispose of their lands, there was no reason why the Bill should not contain a clause giving all denominations power to deal with their lands if they thought fit. Of course it would not be compulsory upon any denomination to avail itself of the power.

Mr. McCULLOCH feared that, if the matter was left to be dealt with at a future time, some of the denominations would make the omission from the Bill of any clause relating to the church lands a pretext for using influence in another place to get the measure rejected altogether. He desired to see the abolition of State aid to religion carried without further delay, but, if the disposal of the church lands was not provided for, there would probably be no settlement of the question this session. He was prepared to go a long way to meet the difficulty by an assurance that if at any future time any denomination submitted a Bill to enable it to dispose of its lands he would support it. It was,
perhaps, difficult to draft a clause to meet the case. A clause was suggested by the honorable and learned member for Brighton, to empower the Court of Equity to decide as to who were the proper parties to have possession of church lands; and probably the adoption of such a clause would be the best course to pursue.

Mr. McDonnell observed that the clause suggested by the honorable and learned member for Brighton provided that if any one of the trustees of the church property of any denomination, or any one member of a congregation of such denomination, thought proper to obtain the direction and adjudication of the Court of Equity for the purpose of having such property held in trust dealt with by the court, he could do so. It struck him (Mr. McDonnell) that this contained a very objectionable element, because the word "congregation" was of a very indefinite and ambiguous nature. He did not think it wise to allow any one member of a congregation to set the court in motion in the way prescribed by the clause. To say the least of it, it was an injudicious mode of dealing with the church lands held in trust. The first of the clauses prepared by the Government for meeting the case stated that all lands which had been granted, promised, or reserved by the Crown, permanently or temporarily, for the religious or educational purposes of any denomination, might, subject to the provisions described in the subsequent clauses, be sold or disposed of by the denomination. Two of the denominations—the Presbyterians and the Roman Catholics—simply desired to be excluded from the operation of the said clause; but he did not think that any reasonable interpretation of the clause would render it compulsory that they should avail themselves of the powers which it gave for the disposal of church lands. He need hardly mention that one of those denominations, at all events, regarded it as a matter of conscience not to sell consecrated lands.

Mr. Higinbotham thought that the great difficulty in connexion with this subject arose from the fact that it appeared almost impossible to find any principle as to the disposition of the church lands which could be accepted by all the religious denominations. If the power of disposing of the lands—which was intended as a boon to the denominations—was not made compulsory, there could be little objection to granting that power, merely because two denominations did not desire to avail themselves of it. On the other hand, if the power was given in general terms, to be exercised by the head of each denomination, honorable members were at once confronted with the difficulty that there were some denominations which had no recognised head at all, and would, therefore, not be able to exercise the power which it was intended that they should have. It seemed to him that the suggestion of the honorable member for Mornington was best calculated to meet all practical difficulties; namely, that individual application should be made in each case to a court, or some competent authority, to investigate the matter and decide the equities with due regard to the wishes of the denomination making the application. With that view he had prepared a clause, which had been correctly stated by the Attorney-General, except in one respect. Although the clause provided that application might be made by one of the trustees, or by any member of a religious denomination—which was an expression used in some of the Acts of the colony, and certainly in all the church grants—and that the court might deal with that application, it also provided that the court should give no decision until opportunity was afforded to any of the other trustees, or to any other member of the same denomination, to oppose the application. He did not think there was any better means of carrying out the object in view than by providing that the question of the disposition of church properties should be left to be dealt with by the Court of Equity, which was accustomed to deal with trusts, and would be able to ascertain the intentions of any person making an application, as well as the views and wishes of the majority of the denomination to which he belonged. Parliament was not a competent tribunal to deal with such cases, but the Court of Equity was. An objection might be raised to this plan, on the ground that applications to a court would entail expense; but he did not see how that difficulty was to be got rid of, because, if the Court of Equity was not to decide these cases, the different denominations must obtain separate Acts of Parliament for themselves, which would also involve expense. It was to be presumed, however, that the expense which a denomination might be put to in obtaining power to sell its land would be more than compensated by the proceeds of the sale. He
agreed with the honorable member for Mornington that, unless some clause was inserted in the Bill to enable those denominations who wished to sell their lands to do so, advantage might be taken of the omission of such a provision to prevent the carrying into law of the main object of the measure, namely, the abolition of State aid to religion. Care should be taken to avoid that danger.

Mr. J. T. SMITH expressed the hope that the conscientious feelings of those denominations which objected to sell their consecrated lands would be respected by the Legislature. In dealing with this question, the wishes of those who had been instrumental in obtaining the lands, and who had contributed to erect churches thereon, should also be borne in mind. If any clause of the kind suggested were adopted, facility would be afforded for placing property at the disposal of persons who had not assisted to gather it together. It would be far better to withdraw the proposition altogether, and pass some clause declaratory of the intention of the Legislature not to interfere in any way with the trustees of lands held for either religious or educational purposes.

Clause 4, and the remaining clauses of the Bill, having been struck out,

Mr. MACPHERSON moved the first of a series of new clauses, which was as follows:

"All lands which at the time of the passing of the Act shall have been granted, promised, or reserved, either permanently or temporarily, by the Crown, or for the purposes of any religious denomination, may, subject to the provisions hereinafter contained, be sold or disposed of by any such denomination, and the moneys or income resulting from such sale or disposition may be applied in such manner as to such denomination may seem best calculated to promote the religious teaching, or to maintain the institutions thereof."

Mr. McCULLOCH moved the following clause, as an amendment. He thought it would meet the views of all parties:

"All lands which at the time of the passing of this Act shall have been granted by the Crown, or reserved by the Governor, permanently or temporarily, for places of public worship or dwelling-houses for the ministers of any denomination, except lands held by or on behalf of the Roman Catholic Church or the Presbyterian Church of Victoria, may, subject to such regulations as shall be approved of by the Legislative Council and Legislative Assembly of Victoria, be sold or disposed of for the purposes of such denomination, and the proceeds of sale or disposition applied in such manner as such regulations shall direct."

Mr. HIGINBOTHAM pointed out that it was intended to allow all lands that had been temporarily reserved by the Governor to be sold. Now this, he thought, was going beyond the province of the committee. He did not see, too, why the Presbyterian and Roman Catholic churches should be excepted from the operation of the clause. He moved the omission of the words "or temporary" from the amendment.

Mr. MACGREGOR trusted that the honorable and learned member for Brighton would not oppose the exemption of the two denominations he had mentioned.

Mr. VALE hoped the amendment for the omission of the words "or temporary" would not be persevered in, and, as a reason for that hope, pointed out that the temporarily reserved lands were in the main lands of lesser value.

Mr. HIGINBOTHAM said that, as it appeared to be the wish of the committee that he should withdraw his amendment, he would do so.

Mr. MACBAIN observed that the amendment of the honorable member for Mornington sought to exclude the Presbyterian and the Roman Catholic churches from the operation of this part of the Bill; and he did not see why any church should be so excluded. He would be glad to support the amendment if that feature of it were kept out. The whole thing was in the nature of a compromise, and unless concessions were made, the Bill would never become law. If the bone of contention was to be done away with, they must allow the Presbyterians and the Roman Catholics to accept or reject the provision as they pleased.

Mr. MACPHERSON moved the insertion of the word "schools," so as to make the amendment apply to school lands as well.

Mr. HIGINBOTHAM pointed out that school lands were dealt with by the Common Schools Act, under which the denominations had the power—a power which he was sorry to say they were very loath to exercise—of selling their lands to the Board of Education. The committee, however, was not dealing with that question now, but with the question of abolition of State aid to religion. The subject of grants of land for school purposes was entirely separate from it. When the Legislature came to the subject of education, it would probably have to come to terms with these bodies in reference to school lands.

Mr. HANNA thought that unless the word was inserted the clause would be lost. In many of the country districts
school-houses were used temporarily as churches.

Mr. LANGTON referred to the cases of St. Paul’s, in Swanston-street, and St. James’s, in William-street, where there was no line of demarcation between the church land and the school land; and it was not shown in the original grant. In cases where that distinction could not be made, it seemed to him that some such amendment as that suggested by the Chief Secretary would be required.

Mr. HIGINBOTHAM, although he believed that there had been one or two cases in which land granted for one purpose had been applied to another, thought that Crown grants had generally been distinct as to the purpose for which the land had been granted.

Mr. MCDONNELL failed to see any force in the course proposed by the honorable member for Mornington, which would exempt from sale any lands granted for school purposes. Power was given to sell lands granted for other purposes, and he thought it should apply to all.

Mr. McCULLOCH said that surely the denominations should not be able to make money out of the sale of lands which had been granted for educational purposes, and altogether apart from religious purposes. He trusted the committee would not permit the amendment of the Chief Secretary to be made.

Mr. MACGREGOR hoped the subject would not be approached in a haggling spirit, but that, in abolishing the grant definitely, honorable members would be prepared to make great sacrifices. With this object he was prepared to support the amendment.

Mr. VALE said there was only one course to take, and that was for those who advocated the abolition of State aid to vote for the postponement of the debate, with a view to the question being settled by an appeal to the country. He thought the committee was prepared to treat the question in a very liberal spirit; but he trusted it was not prepared to deal in this measure with school lands which were separately dealt with and did not properly belong to the real question under discussion. He moved that progress be reported.

Mr. MACPHERSON thought the tone assumed by the honorable member who had last spoken was not calculated to advance the character of the debate. An acrimonious spirit had been introduced into it which was justified by his remarks. He trusted the honorable member would see the desirability of not pressing his motion, when he assured him that he had not the slightest intention of making any unreasonable demand. If the motion were carried and progress were reported now, he pointed out to the honorable member that its effect would be to render nugatory the call of the House which had been ordered for the following day, for the third reading of the Bill. He would be glad to learn from the honorable member for Mornington whether, in the amendment he submitted to the committee, he intended to include school lands, or whether it applied to the 1,800 acres granted for church purposes.

Mr. McCULLOCH replied that his amendment applied only to the handing over of the lands which the Bill provided for and referred to.

Mr. MACPHERSON said that the clauses had been drafted in order, if possible, to carry out the views of Mr. McCulloch, and they showed that the question of schools had been running through the minds of those who drafted them. If it could be shown that the Bill would not have the effect he desired to avoid, he would not press his amendment.

Mr. McCULLOCH felt that the claim of the Chief Secretary was a preposterous one; and he would rather see the Bill thrown out. He would say at once that he would not go further than church lands and ministers’ dwellings, and if the amendment was pressed he should certainly do all in his power to throw out the Bill.

Mr. MACKAY called attention to the fact that, according to the Commons Schools Act, if school lands were sold the proceeds must be applied to educational purposes of the same character as those for which the lands were originally granted. Therefore the amendment, if passed, would come into conflict with the existing law.

After some further discussion the amendment was withdrawn.

Captain MAC MAHON proposed the omission from Mr. McCulloch’s clause of the words “except lands held by or on behalf of the Roman Catholic Church, or the Presbyterian Church of Victoria.”

Mr. MCDONNELL objected to this amendment. He thought the two religious bodies named entitled to some respect and consideration. If they could not, consistently with the claims of conscience, submit to be brought under the proposed legislation, the exception ought to be maintained.
Captain MAC MAHON said there was no necessity to make any exception, because it was perfectly within the power of the religious bodies to take advantage of the clause or not as they pleased. He did not see why, by legislation, two particular denominations should be held up as superior in virtue to the rest of the community. If the object sought were to coerce religious denominations into selling their lands, he could understand attempts being made to obtain exemptions. But the matter was a perfectly voluntary one with the denominations, the only condition being that no church lands should be sold except under regulations to be approved by Parliament.

The amendment was carried, and Mr. McCulloch's clause, as amended, was then agreed to.

The preamble having been passed, the Bill was reported with amendments. The House adjourned at twenty minutes to twelve o'clock.

LEGISLATIVE COUNCIL.
Thursday, November 18, 1869.

Mining Companies Bill (No. 2) —Dower Bill—Municipal Corporations Law Amendment Bill—State Aid to Religion Abolition Bill.

The Chairman of Committees (the Hon. W. H. F. Mitchell) took the chair at fourteen minutes past four o'clock p.m., and read the prayer.

PETITION.

A petition in favour of the speedy passage of the Municipal Corporations Law Amendment Bill was presented by the Honorable C. J. JENNER, from the Fitzroy Borough Council.

MINING COMPANIES BILL (No. 2).

The House went into committee for the further consideration of this Bill (the Hon. A. Fraser in the chair).

On clause 3, the consideration of which was postponed from the previous evening, the Hon. C. J. JENNER reminded the committee that, at its last sitting, he had been requested to obtain some information with respect to this measure. He now begged to lay before honorable members a report which he had received from the Mining department, and which he requested the Clerk to read.

The Clerk read the report, as follows:

"From the date of the issue of the lease (copy pro forma attached) the lessees' obligation to fulfil the covenants therein contained commences.

"The mining surveyor of each division is required to furnish at the end of each successive month, a tabular statement showing what numbers of men have been employed during the month on the several areas of land held under lease in his division.

"In case of any person making complaint to the department that the covenants of any lease are being neglected, one, or if necessary all, of the following steps, simultaneously or in succession, are taken, viz.:—To require the warden, the mining surveyor, or the bailiff under the Mining Statute, to ascertain by personal inspection or otherwise the actual condition of the leased land, the character and extent of the work which has been, and is being carried on; the nature of the obstacles (if any) to the present prosecution of the works, and to report thereon, and generally as to the subject of the complaint; to warn the lessee that such complaints have been made, and that the lease will be liable to be declared void unless the covenants be fulfilled; to call upon the lessee to show cause why his lease should not be declared void on the ground of non-fulfilment of covenants.

"If the result of the inquiries made shows that a lessee without reasonable excuse has violated the conditions subject to which he occupies land under lease, the matter is submitted for the instruction of the honorable the Minister of Mines, and, if he should so direct, the following course is followed:—

"If the term for which rent has been paid is not yet expired, instructions are given to the receiver of revenue to refuse any further payment of rent, and, when the term paid for has elapsed, the case is again submitted to the Minister.

"If, in the meanwhile, nothing has occurred to alter the aspect of the case, and the covenants are still unfulfilled, the Minister, if he deems it right to do so, makes a recommendation to the Governor in Council to declare the lease void.

"(The 42nd section of the Mining Statute prescribes that in case any lease granted for mining purposes shall be or be liable to be forfeited, &c., possession of the land demised shall and may be recovered on behalf of Her Majesty in such manner as may be provided by any of the conditions of the lease.) Pursuant to clause 46 of the Mining Statute, the lease form now in use under the order in council of 2nd March, 1868, in covenant No. 20, provides that, for non-payment of rent or breach of covenants, the lease shall be voidable at the will of the Governor in Council; and that in case the Governor in Council shall by writing under his hand declare the lease void, the said term shall cease and determine, both at law and in equity, and such declaration shall be conclusive evidence in all courts of law and other judicature of a breach of the covenants and provisions, &c., sufficient to sustain such declaration having been committed.

"A pro forma copy of the form in which such declarations of forfeiture are made by the Governor in Council is attached.

"In some cases lessees against whom complaints are made are able to show satisfactory reasons why their failure to comply strictly with the conditions of their leases should not be punished by
the forfeiture of their leases, but in very many cases lessees having ceased to comply with the labour covenants, and failed to pay rent when due, neglect to make any reply to the letter requiring them to show cause against their leases being declared void.

In such cases the leases are, on the recommendation of the Minister, declared void by the Governor in Council after the expiration of the time given to the lessees to show cause.

"The following are cases in which the validity or sufficiency of the forfeitures of certain gold mining leases have been questioned, and have become the subject of proceedings in the courts of law:

"In the case of 320, Sandhurst, a lease issued under the Act 21 Victoria No. 32—an officer of the Government accepted rent after the lease had been forfeited, and thereby cured the forfeiture; the holder of the lease in consequence maintained possession of the ground during the further term paid for, but when it expired further payment of rent was refused, and the labour covenants being still unfulfilled the lease was again declared void; and Mr. H. B. Nicholas, by virtue of his appointment as agent of Her Majesty, &c., entered upon the land and resumed possession of it after publication of the usual Gazette notice declaring the lease void.

"In the case of J. C. J. Johnstone, the lease (No. 430, Boonwoorth) was issued under the Act 25 Victoria No. 148. It was declared void for non-fulfilment of covenants, after the usual notices and warnings to the lessee. The former lessee disputes the validity of the forfeiture, and his acceptance of the lease, and he would enter upon the ground for mining purposes. The proceedings are, it is believed, not yet finally settled in this case.

"In the case of lease 825, Sandhurst—W. and J. Tipper—the lessees attempted to retain possession of the land in spite of the lease having been declared void (Government Gazette, 12th March, 1867). They resisted the mining surveyor on his proceeding to remove the posts. That officer (Mr. Hart) afterwards, by virtue of his appointment by the Governor in Council as officer and agent of Her Majesty, &c., removed the posts and took possession of the ground—giving into custody the lessees, John Tipper, for resisting him in the execution of his duty; John Tipper brought an action against Mr. Hart, for false imprisonment, and got a verdict for one pound (£1) damages.

"In the case of lease No. 475, Sandhurst—W. N. Paul, lessee—the lease was declared forfeited on the 28th June, 1866, for non-payment of rent. The same ground was afterwards applied for by Bryant and McCarthy, under the leasing regulations, and a lease, No. 1065, Sandhurst, was issued to them, dated 15th October, 1866. Paul, however, continued in possession of the ground; and to remove him and place Bryant and McCarthy in possession as lessees, the appointment of Mr. Hart as officer and agent of Her Majesty, &c., was made under the said authority. Mr. Hart ejected Paul and resumed possession, and the lessees, Bryant and McCarthy, then entered upon the ground and now hold it under their lease, No. 1065.

"In the case of lease No. 915, Sandhurst—Constantine Apostolo and another, lessees—an area of 5a. or 1p. was held. The southern part of the land was afterwards required for the Victorian Water Supply, and was taken possession of by the Board of Land and Works under the 343rd clause of the Public Works Statute 1865. Thereupon the Governor in Council, by an order dated 19 July 1868, reduced the area to hold under lease to 2a. 1r. 4p., and the rent was reduced in proportion. The lessees subsequently failed to pay rent for the reduced area, and did no work on it, and, after the usual notice to the lessees to show cause against the forfeiture, the lease was declared void in the usual manner on the 30th June, 1868. Mears, Apostolo and another subsequently commenced legal proceedings against the lessees, but the particulars of the case are not in this office; the case was settled by an agreement with the Water Supply Department, through the Crown law offices without coming into court.

"In the Bendigo Advertiser of the 3rd November, 1869, the case of Pearson v. Albert is reported. This case seems to have been without any reference to the provisions of the Mining Statute. It refers to lease No. 709, Sandhurst, and in that case there was a clear breach of the covenants of the lease.

"The making the notice in the Government Gazette—whether signed by the Minister or the secretary—evidence in courts of law of equity concerning the powers of those persons. They do not forfeit the leases. That is done by the Governor in Council. The notice is a mere advertisement whereby the act of the Governor in Council is published.

"When the Mining department first took charge of the Victorian mining leases an injurious practice prevailed, by which the power of forfeiting mining leases was claimed and exercised without inquiry and without control.

"In the case of leases No. 344, 345, 346, and 322, Maryborough, held by the Mammoth Company at Chinnaman's Flat, Maryborough, the lessees failed to fulfil the labour covenants; the ground was lying waste and unprofitable; the Mining Board had drawn attention to the abuse; the rent was left unpaid, and, after all usual notices had been given, the leases were declared void.

Mr. JENNER proceeded to remark that the report which had just been read showed that the Mining department had been very careful in the matter of forfeiture of leases. He was prepared to strike out of the clause under consideration the words "or hereafter to be" in the first line. The clause declared that notices heretofore or hereafter to be inserted in the Government Gazette should be deemed to be conclusive evidence of forfeiture. He believed that that omission would meet the views of all honorable members. He also proposed to add to the clause a proviso in the following terms:

"Provided that nothing herein contained shall affect any suit now pending in any court of law or equity.

The Hon. J. O'SHANASSY said he held in his hand a petition which reached him too late to present that evening, but he might perhaps be pardoned for referring
to it for the purpose of showing the objection he entertained to the proposition before the committee. The petition in question was from the chairman and board of directors of the New North Clunes Quartz Mining Company, and set forth that the clause under consideration was fraught with great danger to the interests of Her Majesty's subjects engaged in the pursuit of mining. The ground of the petitioners' objection to the clause was that, under its operation, the lease of their mine, which was worth something like £300,000, was liable to forfeiture at the hands of the Minister of Mines or the Secretary of Mines, without those officials being required to give any explanation whatsoever of the reasons which had guided them in their decision.

The Hon. N. FITZGERALD mentioned that he also had been intrusted with a petition in reference to this Bill, from persons interested in mining in the district of Sandhurst and its neighbourhood, praying that it might pass as it stood; but the views of the petitioners had, so far as he could judge from conversation with them, undergone some change. He did not agree with the prayer of the petition.

The Hon. T. T. A'BECKETT said that, judging from the report of the Mining department which had been just read, there was no necessity for this clause, or any special interference on the part of the Legislature to prevent injustice being done. Why were new powers requisite? The report showed the number of cases in which leases had been forfeited, and also that they had only been forfeited on very sufficient ground. It was well understood that unless it could be shown that the lessees had failed to fulfil the conditions their leases would not be declared invalid; and all precautions appeared to have been taken to ascertain that the leases really had been forfeited on very sufficient ground. No doubt there was an intimation that the wardens used sometimes improperly to forfeit leases. If the clause were passed, there would be no precautions taken whatever, and the lessee would be entirely at the mercy of the Mining department. It should not be for a moment lost sight of that the mining interest was a most important interest, and that it could only be developed by the outlay of capital, and capitalists could not be expected to foster it by their means unless they felt a certain degree of security as to their tenure. The fact of the bare possibility of such a thing happening, as might happen under the operation of this clause, would, he ventured to say, deter many persons from investing. He was unwilling to throw out a Bill which he presumed had been introduced into the Legislature under some feeling of a strong character as to the existence of injustice that could only be remedied by legislative action; but he wanted to know what the injustice was, and the extent to which it was necessary that the remedy should be applied, because, unless they proceeded with caution, whilst applying it in one direction, they might be doing a grievous injury in another. He did not like hasty legislation of this character, and the committee should feel very much obliged to Mr. Jenner for bringing the report before them. What he felt from hearing that report read was that no mischief had been disclosed. If it was otherwise, he should like to have it pointed out.

Mr. JENNER remarked that there was no desire on the part of the Mining department for the enactment of this clause. It had been proposed for the advantage of holders of claims who were liable to have them taken away from them. He submitted that the two petitions that had been referred to in the course of the discussion were in favour of the clause to the extent of legalizing forfeiture up to the present time, but the petitioners did not desire it to continue hereafter. His amendment did all that was required in this direction; and then the proviso which he had already read to the committee could be added.

Mr. O'SHANASSY said that he believed the committee would be quite willing to legalize the position of those now in possession, if they could first be assured that they were rightly in possession. Again, Mr. Jenner did not propose to touch the power sought to be given to the Minister of Mines and the Secretary of Mines of forfeiting a lease on a mere Gazette notice. He expected, when he asked for a report, that the department would have stated in how many cases new persons had the right to go in, and how many old lessees were attempting to establish their rights. He thought, on the whole, it would be advisable to strike out the clause.

The Hon. G. W. COLE considered it quite unnecessary to retain the clause. The Mining department appeared to have all the power necessary for enabling them
to carry out the law. The Governor in Council could do certain things; amongst others he could affix his name to the forfeiture, and it was published in the *Gazette*. That was all that was wanted. The difficulty had arisen, as he understood, out of a decision recently given by Judge Macoboy in the Court of Mines; that decision had been appealed against and confirmed by the Supreme Court, where it was decided that the mere publication in the *Government Gazette* was insufficient. He would support the proposal for the striking out of the clause.

Mr. FITZGERALD observed that this very short Bill was one that affected most materially an important—a paramount—interest of the country; and the manner in which it had been dealt with elsewhere was, to his mind, evidence of the necessity which existed for the Council exercising its power of checking hasty legislation. He read the Bill with an extraordinary feeling of surprise, and he found it difficult to believe that the injustice and mischief which it was calculated to work could have escaped the attention of those who allowed it to pass in another place. He could not quite agree with any honorable member who had preceded him as to the manner in which it behoved the committee to deal with the difficulty. Honorable members seemed to be all agreed that the words "or hereafter to be" ought not to remain part of the clause. Extraordinary powers had been too frequently of late conferred upon a Government accidentally strong, and, practically, for a length of time beyond the reach of public opinion. Those words being omitted, the clause would stand unobjectionable, except as to the proposed proviso; for he could not think that Mr. Jenner desired to allow all the speculative lawyers throughout the country to have the power of proceeding with actions, and mulcting those who had invested their money and their brains in the search for gold. He thought the difficulty might be overcome in this way: It was necessary that some legislation should take place after the recent decision of the Supreme Court, and as the third clause—however it might be altered—had essentially for its object the protection of those whose forfeitures were declared to be illegal, the words "or hereafter to be" should be struck out, and a proviso inserted fixing for its operation a date antecedent to the decision which gave rise to all the commotion that existed. He believed that such a course would entirely meet the justice of the case and the views of everybody interested, because it was absolutely essential for the protection of the mining interests, and would at one and the same time protect vested rights and give offence to no one. Something should unquestionably be done to prevent those speculative actions to which he had alluded, and which he was persuaded there was a class of persons only waiting the verdict of that Chamber before they commenced. He objected to the proviso suggested by Mr. Jenner, for the reason that it was too sweeping. He, therefore, hoped the committee would accept his suggestion, and pass a proviso fixing the 1st of March last as the limit of date.

Mr. O’SHANASSY asked Mr. Jenner whether any application had been made to the Minister of Mines to protect persons in the position described by Mr. Fitzgerald?

Mr. JENNER replied that he believed no such application had been made. The position was this. When an allotment of land was let to a company for carrying on mining operations, if that company should fail to carry out the conditions of their lease, after due notice had been served upon them, the district surveyor inspected the claim and reported to head-quarters. Every possible precaution having been taken, the case was brought before the Governor in Council, and the lease was declared forfeited. The parties who took out the lease abandoned the claim; it might be because they found that it was not a profitable undertaking, or it might be from other causes. At all events other persons took up the land; possession was given them; they spent a large sum of money, and were successful. After that the original occupiers returned, and desired to repossess themselves of the claim they had abandoned after it had been profitably worked by others. Of course that could not be allowed; and, if the Legislature sanctioned such a thing, the inevitable consequence would be that large claims for compensation would be preferred, and a great deal of litigation would ensue. As had been already stated by Mr. Cole, all this difficulty had its origin in a case having been taken to the Court of Mines, the defendant in which was under the impression that the mere production of the *Government Gazette* containing notice of forfeiture was sufficient. The judge ruled that it was insufficient. If, however, the order in council and the lease itself had been produced, he ventured to say that no
judge in this colony or elsewhere would have decided against the defendant. It was simply to set at rest the various doubts that existed in mining districts throughout the country that this clause had been framed, and, as honorable members were aware, there was a very strong desire on the part of mining members in another place that there should be a clause of this description inserted in the Bill.

Mr. O'SHANASSY asked honorable members not to lose sight of the declaratory character of the clause. The words were—

"Shall have been or shall be declared forfeited, such notice shall be and shall be deemed to have been from the date of such its insertion conclusive evidence."

He thought Mr. Jenner must have overlooked the effect of this. As the clause was drafted the Minister of Mines, or the Secretary of Mines, could forfeit every lease. If they could be sure that they were doing no injustice in fixing a date, he believed there might be some good result from quieting titles. But how was the date to be fixed? It was after all a departmental question, and it was for the Minister of Mines to show that, up to a certain date, no dispute existed in relation to leases. If the date were left blank, Mr. Jenner might afterwards be able to satisfy the House on that point.

Mr. FITZGERALD observed, that it was a great mistake to suppose, whatever the rules and regulations might be (be they ever so stringent), that there were many cases in which a plaintiff could produce evidence—bring witnesses—to prove that the pegs on leased land had been taken up and possession resumed. In the case of the Sandhurst petitioners it appeared to have escaped their attention that, in their anxiety to obtain some security of tenure, they were signing their own death-warrant. It was in the highest degree essential that owners of property in connexion with mining enterprises should have their apprehensions allayed by legislation, and, consequently, the clause should pass in some form. He thought Mr. O'Shanassay had solved the problem, by suggesting that the date should be left blank. Under a panic, the clauses of the Bill had been passed almost in globo in another place.

Mr. T. T. A‘BECKETT thought that Mr. Fitzgerald's conclusions were opposed to his premises. He could not see the objection to leaving the law as it was.

The Hon. W. CAMPBELL remarked that all this difficulty must have arisen out of some neglect on the part of the Mining department. It behoved the authorities to see that the conditions were fulfilled. (Mr. Fitzgerald—"Yes, hereafter.") It did not appear from the returns laid on the table that there was a very large class of persons affected in the way suggested. He entertained very grave doubts of the propriety, under any circumstances, of legislating for a section of the people.

Mr. FITZGERALD said it was within his personal knowledge that numbers of persons on the gold-fields had made it their special business to traffic in shares situated in this way, with a view to litigation, if the committee did not do something towards a settlement of the question.

The motion that the words "or hereafter to be" be struck out was agreed to.

Mr. JENNER moved that, after the word "declared" and before the word "forfeited," the words "void or" be inserted. The object of the amendment was to bring the clause into harmony with the notice that appeared in the Government Gazette and also the orders in council.

The amendment was agreed to.

Mr. T. T. A‘BECKETT moved that, after the word "forfeited," mentioned in the last amendment, the following words be inserted:—

"And any persons shall, as against the lessees, been under colour of any authority from any of the persons above mentioned put into or obtained possession of such lands for the purpose of mining thereon."

This amendment would have the effect of quieting the titles of all persons put into possession. Without it innocent persons would be liable to injury; and he wished to protect those who were not involved in any conflicting claim.

Mr. O'SHANASSY pointed out that, if the date could be fixed so as to stop speculative actions, there would be no objection to the amendment.

The amendment was agreed to.

In that part of the clause which declared that the insertion of notice in the Government Gazette should be conclusive evidence of forfeiture, Mr. JENNER moved that the word "publication" be substituted for "insertion."

The amendment was agreed to.

Mr. JENNER moved that, after the words "conclusive evidence that such
lease was and was duly declared to be forfeited at the time mentioned in such notice," the following words be inserted:—

"And that Her Majesty forthwith thereafter re-entered upon the said land in pursuance of the covenants or provisions for re-entry contained in the said lease, and the land comprised in any lease so declared void shall be deemed to have been, from the date of the publication of the Gazette containing such notice, vacant and unoccupied Crown land, capable of being taken possession of and occupied for mining purposes within the meaning of the Mining Statute 1865."

The amendment was agreed to.

Mr. JENNER moved that the following proviso be added to the clause:—

"Provided always that nothing in this section contained shall affect any action, suit, or proceeding commenced before the day of , 1869, but the question involved in such action, suit, or proceeding shall be decided as if this section had not been passed." The honorable member undertook to get the proper dates filled in by the Mining department before the third reading of the Bill was taken.

The amendment was agreed to.

The Bill was then reported with amendments, and afterwards re-committed on clauses 1, 2, and 3.

The Hon. W. HIGHETT moved the addition of the following words to clause 1:—

"And any shareholder in any company incorporated under the said Act shall have power to vote by proxy, signed by such shareholder without seal, for the making and altering any such rule, or any other rule, pointed out by section 39 of that Act, in all cases where no rule to the contrary shall have been previously made by any such company."

The object of the amendment was to enable shareholders in certain cases to vote by proxy. It was found by experience that many companies could not get a legal meeting under the existing Act. Section 39 of that Act provided that there should be present at such meetings a majority in number and value of the shareholders. There was great difficulty in getting together a majority in number, whilst there was no difficulty in getting a majority in value. There were many shareholders in these companies who held only a very small interest in them, and who could not be persuaded to leave their business to attend the meetings.

The amendment was agreed to.

Mr. HIGHETT (on behalf of Mr. FRASER) moved that the following words be added to clause 2:—

"Provided that if at the time of any shares being forfeited the holders of such shares from any liability in existence at the time such shares were forfeited unless such shares were transferred or sold to other parties."

Mr. JENNER pointed out that the shares could not be forfeited unless there was some substantial reason for it.

After an observation from Mr. T. T. A'BECKETT, the amendment was withdrawn.

Clause 3 was, after a further verbal amendment, passed in the following form:—

"Whenever by any notice, heretofore inserted in the Government Gazette, signed or purporting to be signed by the Minister having for the time being the charge of the mining interests of the colony, or by the Secretary for Mines, any lease granted under either of the Acts of the Parliament of Victoria No. 32 or 148, or under the Mining Statute 1865, shall have been declared void or forfeited, and any person shall as against the lessees have been, under colour of any authority from any of the said lessees, or of any person or persons, such forfeiture shall not in any way release the holders of such shares from any liability."

The amendment was agreed to.

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The amendment was agreed to.

Mr. JENNER pointed out that the shares could not be forfeited unless there was some substantial reason for it.
Casey), on the 4th of March last. There are 62 municipalities in the colony. The estimated aggregate value of their rateable property is upwards of £20,000,000, and the annual value of it is £2,000,000. The Bill is divided into parts. Under it the Governor in Council has power to unite boroughs and parts of boroughs, and to fix the number of councillors. It also refers to burgesses and their rights, the nomination of candidates, election of mayors and councillors, and gives power to make rates and valuations. There is also power given to make by-laws, and to borrow money on debentures for carrying out special works. Powers are further given for the establishment of markets and cab stands, and the regulation of them. They are very much required at many places, especially at Ballarat. This Bill is very similar in its character to the Local Government Act Amendment Bill; and although, in my opinion, it would have been much better if the two objects had been embraced in one measure, the next best thing now will be to assimilate them as much as possible. I have about two hundred amendments to propose, although most of them are of a merely verbal character. I will explain the nature of them when the Bill is in committee. I now move that the Bill be read a second time.

The Hon. J. O'Shanassy.—I second the motion. Notwithstanding the unusual length of the present session—Parliament having been sitting since the 11th of February—I think it very desirable, if possible, as I am sure it is, to assimilate this measure and the Local Government Act Amendment Bill. Honorable members are aware that a great deal of consideration has been given to and trouble taken with the latter measure by both branches of the Legislature. If, therefore, they can be made to harmonize in their leading principles—principles which are of the greatest public interest, such as the question of voting, rating, revenue, and tolls—so that similar laws may be in existence for citizens of boroughs and shires, I think great benefits will accrue. I will do my utmost to assist the honorable member representing the Government in attaining this end.

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

On clause 2 (the interpretation clause), in the paragraph defining the expression "law officer;"

Mr. Jenner moved that, after the words "Minister of Justice," the words "being a barrister-at-law of not less than five years' standing" be inserted. The honorable gentleman explained that his object in proposing this amendment was to make the interpretation of the expression correspond with a similar one as amended by the Council in the Local Government Act Amendment Bill.

The amendment was agreed to.

Mr. Jenner moved that, in the paragraph defining the meaning of the word "single," where applied to boroughs, to be "boroughs not formed by the union of two or more boroughs, or of a borough with a road district, or a shire," after the word "shire," the words "or a city or a town" be inserted.

The amendment was agreed to, and corresponding amendments were made in various clauses up to clause 241.

On clause 7, which related to the constitution of existing boroughs, and provided that the Governor might, from time to time, alter and adjust the boundaries of boroughs, or boroughs and shires, or any part thereof,

Mr. O'Shanassy moved that after the words declaring that boroughs constituted—

"Before the commencement of this Act, or by or under any Act heretofore in force, and set forth, together with the boundaries thereof respectively, in the first schedule, and numbered from 1 to 60 both inclusive, shall"—

And before the words "continue and be boroughs by the names set against each in the said schedule," the words "henceforward until they are altered in pursuance of the provisions of this Act" be inserted.

The amendment was agreed to.

Mr. Jenner moved that the immediately succeeding words, "and no part of the area comprised within any such borough shall henceforth be within or parcel of the city of Melbourne," be struck out, and that the following words be inserted in their place:—

"And no part of the area comprised within the borough of East Collingwood shall henceforth be within or parcel of the city of Melbourne, except that piece or portion of land known as the Corporation Quarry Reserve, hereafter described in the schedule, of the said borough."

He explained that the amendment was necessary, in consequence of an alteration which had been made in the boundaries of the borough of East Collingwood. If the clause remained as it was other parcels of
land would be taken from the city of Melbourne.

That portion of the amendment which referred to the omission of the words quoted was agreed to, and that portion of it which asked for the insertion of other words was negatived.

Mr. O'SHANASSY moved that, after the words "the Governor may from time to time alter and adjust the boundaries of a borough, or of a borough and shire," the words "or of a borough and road district" be inserted.

The amendment was agreed to, and corresponding amendments were made in various subsequent clauses up to clause 241.

Mr. O'SHANASSY moved that, after the immediately succeeding words, "or any part thereof," the words "and may unite one or more road districts with a borough be inserted."

The amendment was agreed to.

Mr. O'SHANASSY said that at this point it was advisable that he should call the special attention of the committee to a debate which took place, when the Local Government Act Amendment Bill was under consideration, as to whether the minimum annual revenue derivable from rates by a borough or shire should be reduced from £1,500 to £1,000. For his part, although he fixed, on that occasion, upon the higher figure, he had become so sensible of the necessity of harmonizing the two measures to the fullest possible extent, that he would not offer any objection to a reduction if, by it, that end could be accomplished. He hoped the concession would meet the difficulty. With this object in view he moved that the following proviso be added to the clause:

"Provided that the yearly income of rates derivable from such borough so constituted by union shall not be less than £1,000 sterling, based upon a rate not exceeding Is. in the £1 on the net annual value of rateable property under the jurisdiction of such borough; provided always the powers conferred upon the Governor shall be exercised upon the petition of ratepayers of the borough so constituted by union of one or more road districts with a borough so constituted." He understood, from a general expression of feeling on the part of honorable members on the occasion to which he referred, that they desired a reduction from the larger to the lesser amount, and, with a view to the settlement of the question, he was prepared to give way.

The amendment was agreed to.

On clause 15, defining the circumstances under which the union of boroughs should take place,

Mr. JENNER moved, in relation to the continuous area which boroughs so situated should comprise, the insertion of the following words:

"Not exceeding altogether nine square miles, and having no point within such area distant more than six miles from any point therein."

The amendment was agreed to.

On clause 16, relating to the same subject, a similar insertion and consequential amendments were agreed to.

On clause 35, which defined the qualification for a councillor of a borough,

Mr. JENNER moved that, after the words "he must," the words "be a natural born or naturalized subject of the Queen" be struck out. This, he thought, applied invidiously to Americans, for example, who had proved themselves to be thoroughly qualified to hold positions of honour and dignity in the municipal bodies of this country.

The Hon. T. T. A'BECKETT quite concurred in the propriety of omitting the words in the question. It was, he thought, more a sentimental theory than anything else which induced people to advocate the exclusion of aliens from participation in the legislative affairs of the country of which they were citizens.

The amendment was agreed to.

On clause 47, defining the qualification for enrolment on the burgess roll,

Mr. O'SHANASSY moved a series of amendments, in order to make the voting power accord with that defined by the Council's amendments in the Local Government Act Amendment Bill. The amendments in question fixed the voting power as follows:

"If such rateable property, whether consisting of one or more tenements, be rated upon a rateable value of less than £25, he (the owner or occupier) shall have one vote; if such rateable value amount to £25 and be less than £50, he shall have two votes; if it amount to £50 and be less than £75, he shall have three votes; and if it amount to or exceed £75, he shall have four votes."

The amendments were agreed to.

Mr. O'SHANASSY moved, in that portion of the clause which declared that, if there were no person in occupation of rateable property, the owner of it should on payment of rates be entitled to be enrolled in respect of it if it were of the net annual
value of £20, that £10 be substituted for £20.

The amendment was agreed to.

On clause 115, defining the mode of election of mayors, their privileges, and the way in which mayoral vacancies were to be filled up,

The Hon. R. SIMSON moved the omission of the concluding sentence of the clause, as follows:—

"Prior to the election of any mayor the council may, if they think fit, grant an allowance (which shall not in any year exceed £3 per centum on the gross income of the borough for the last preceding year) to the mayor during his term of office, and such allowance may and shall be paid to the mayor for the time being out of the borough fund."

Mr. JENNER inquired on what ground the omission was proposed?

Mr. SIMSON argued that, as a similar provision had been expunged from the Local Government Act Amendment Bill, there was no reason why it should be retained in the measure before the committee.

The Hon. W. H. F. MITCHELL distinctly understood it to be the expressed intention of the committee to assimilate the two Bills. If that really was the intention, why should the provision be expressly struck out in one case and not in the other? He regarded it as a monstrous proposition, and would support the motion for its expungement. There were many municipalities the officials attached to which had nothing whatever to do beyond seeing that a few small streets were kept in passable order.

Mr. T. T. A'BECKETT did not think the amendment a fair one to propose. Out-of-the-way places like those referred to by Mr. Mitchell did not afford a fair illustration of argument in its favour. The office of mayor ought to be maintained with something like dignity, and the matter should be left in the hands of the burgesses, who were the administrators of their own funds. He hoped the committee would consent to postponing the consideration of the question for a fuller attendance of honorable members; otherwise he should divide upon it.

The Hon. W. HIGHTETT supported the views expressed by the last speaker.

The clause was postponed.

On clause 118, declaring that mayors of boroughs should by virtue of their office be justices of the peace during their mayoralty and the year immediately succeeding their tenure of office, and that they should, during the period of their mayoralty, have precedence in all places within their boroughs,

The Hon. N. BLACK moved that the consideration of the clause be postponed. He thought it quite possible that a gentleman, however eligible he might be for the office of mayor in other respects, might make rather a ridiculous appearance presiding on the bench, if he never happened to occupy that position before.

Mr. JENNER moved the omission of the words "And such mayor shall, during the time of his mayoralty, have precedence in all places within the borough."

Mr. T. T. A'BECKETT thought it was in every respect desirable, and only decent, that the mayor should take precedence on the bench during his twelve months' tenure of office.

Mr. MITCHELL contended that, although in every other respect a man might make a very good mayor, he might be quite unqualified to preside as chairman of a bench of magistrates. It should be borne in mind that, if the clause was passed as it stood, the mayor must sit in that capacity, although he might be ever so disposed to give place to a more experienced brother magistrate.

After some further remarks, the clause was postponed.

On clause 143, relating to the appointment, removal, and salaries of treasurers, town clerks, surveyors, valuers, collectors, and other officers of the council,

Mr. JENNER moved that the following words be added to the clause:—

"No person shall hereafter be appointed a surveyor or engineer by any council under this Act unless and until he shall have obtained a certificate of competency as a surveyor of land and works from a board of examiners who shall and may be appointed by the Governor for the examination of surveyors."

The amendment was agreed to.

On clause 147, declaring that—

"Every collector appointed or employed by the council by virtue of this Act to collect any rates, shall, within three days after he shall have received any moneys on account of any such rates, pay over the same to the treasurer to the account of the council, and the receipt of such treasurer for the moneys so paid shall be a sufficient discharge to the collector."

Mr. SIMSON moved the insertion of the words "unless with the special permission of the council to the contrary" before the words "within three days."

The amendment was agreed to.

Mr. JENNER moved that, in substitution of the word "and" after the words
"to the account of the council," the following words be inserted—

"And at the same time deliver to the treasurer a statement of the persons paying such rates, and produce to the treasurer the blocks of receipts given to such ratepayers, which blocks the treasurer shall in every case initial."

The amendment was agreed to.

On clause 152, providing that books of account should be caused by the council to be kept, and should be open for inspection by councillors and ratepayers, and providing a penalty of £5 against the officer in charge of such books on his refusing inspection of them,

Mr. JENNER moved that the words "not exceeding" be substituted for the word "of" before the words "£5 for every such offence."

The amendment was agreed to.

On clause 157, providing that special auditors might be appointed in certain cases,

Mr. JENNER moved that the following words be added to the clause:—"Provided that one or both of such special auditors may at any time be removed by the Governor, and another or others appointed in his or their stead."

The amendment was agreed to.

On clause 159, providing that for the purpose of audit, auditors and special auditors might "hear, receive, and examine evidence,"

Mr. JENNER moved the insertion, after the foregoing words, of the following:—"Upon oath, which oath such auditor and special auditor or any of them are hereby empowered to administer."

The amendment was agreed to.

The committee having proceeded as far as clause 241,

Progress was reported.

STATE AID TO RELIGION ABOLITION BILL.

This Bill was brought up from the Legislative Assembly.

The Hon. C. J. JENNER moved that the Bill be read a first time.

The Hon T. T. A'BECKETT objected to any step in relation to the Bill being taken, when there were only three honorable members, besides the acting President, in their places.

The consideration of the subject was postponed until the next sitting.

The House adjourned at eight minutes past eleven o'clock until Tuesday, November 23.

LEGISLATIVE ASSEMBLY.

Thursday, November, 18, 1869.


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

MRS. ROBERTSON.

Mr. HUMFFRAY asked the Chief Secretary whether the Government would place on the Supplementary Estimates for 1869, the sum of £100, in full compensation of the claims made by the widow of the late William Robertson, contractor, for the dredging of the River Yarra, owing to special losses sustained under the said contract? The honorable member said that the losses arose from the negligence of the Government of the day in not supplying the contractor with the necessary machinery.

Mr. MACPHERSON intimated that the claim of Mrs. Robertson had been considered by the Minister of the Public Works department on more than one occasion since 1863, and disallowed. He saw no reason to interfere in the matter.

NATIONAL GALLERY.

Mr. BLAIR asked the Chief Secretary whether the selection of pictures for the National Gallery was made at regular meetings of the Fine Arts Commission; also at what date the last meeting of the commission for the purpose of selecting pictures was held, and what members were present at that meeting?

Mr. MACPHERSON said that he had received an answer to the question from Sir Redmond Barry, one of the commissioners, which he would read. It was as follows:—

"Nov. 17, 1869.

"SIR,—I do myself the honour to supply you with the following information respecting the selection of pictures now in the gallery of the Melbourne Public Library, in order that you may be in possession of materials to guide you in the answer you intend to give to Mr. Blair's question on the paper of the Legislative Assembly.

"1. The Fine Arts Commission, in their first report, recommended that a sum of money (£200) should be offered for the purchase of a painting by
an artist resident in Australia; and that, to encourage competition, an exhibition should be held in Melbourne.

"2. The money was voted, the exhibition was held, and the commissioners selected a picture by Chardin.

"3. The commissioners, in their second report (paragraph 10), recommended the purchase, by the Government, of the 'Portrait of a Lady.' In their first report, they also recommended that Sir Charles Eastlake should be requested to suggest a certain number of pictures suitable for a place in the gallery.

"4. With this request he was pleased to comply, and, with Mr. Childers, he selected from the Exhibition and the Royal Academy in London four oil paintings—'Fern Gatherer,' 'La Belle Yeuse,' 'Wattergate Bay,' 'Horses and Pigs'; three oil paintings from Gambart's French and Flemish Exhibition in London—'Sheep in Heafose,' 'Poultry Vendor,' 'French Artists'; also, from Gambart's, 'Bunyan in Prison,' also, from the artist, 'Departure of the Pilgrim Fathers,' original of fresco in House of Lords; from Christie, 'Italian Family;' from Gambart, 'Départ du Fiancé.'

"5. Mr. Childers having taken office, the purchase of these pictures was completed by Major (now Sir Redmond) Barry, and the commissioners selected two, bought and paid for by him—'The Rose of England,' by Baxter; 'The Rosebud of England,' by Baxter—which are understood to be portraits of two young ladies resident in Edinburgh.

"6. Sir Charles Eastlake died, and the commissioners, in pursuance of their second report, recommended that five British artists of the Royal Academy should be invited to paint each a picture.

"7. Mr. Thomson was requested to convey to these artists that recommendation, and copies of the report were forwarded, to be distributed amongst them. Two pictures only were painted in compliance with that request—'Rachel,' by Goodall; 'Landscape,' by Lee.

"8. Lady Eastlake was afterwards asked to allow herself to be associated with Mr. Thomson in the further selection. Her ladyship assented to this, and for some time gave him the benefit of her assistance. Eventually she begged to be relieved from the duty.

"9. 'Two other oil paintings—'First Snow on Tyrolese Alps,' by Weber; 'Rotterdam,' by James Webb—were selected by Mr. Thomson, aided by the advice of several eminent artists, supported by the opinion of other persons of great experience.

"10. Three more oil paintings are expected to arrive in the course of this month. One was bought by Mr. Thomson in London, under circumstances detailed in his letter to me, already published; the other two, purchased by Mr. Summers, a member of the commission at Rome, respecting which particulars have not yet been received.

"11. It remains for me to state that Sir Charles Eastlake declined to undertake to select copies, and that the managing committee of the Arundel Society also declined to assist Mr. Thomson in procuring some through their agency. He made several ineffectual efforts to procure some offered for sale by London dealers, and failed to secure some of the celebrated copies of Velasquez. made by the late Mr. Phillips. He was enabled, however, to acquire two—one 'The Marriage of St. Catherine' (after Van-
which none of those who desired to have copies were at all consulted. I don't know whether the protectionist members of this House, if they embodied their principles in an Act of Parliament, would think it a safe experiment to leave the free traders to carry out their attempt at protection, and, if it failed, to say—"Look what has come of protection!" but this would just be as reasonable as that gentlemen who think that copies—which exist in every national gallery in Europe—ought to be in our National Gallery should be charged with failure when the carrying out of the task of procuring copies was intrusted to gentlemen who thought that there ought to be no copies. I entirely deny that I am in any way responsible for the bad copy, inasmuch as I moved a resolution that we should have good copies. Coming to the questions which I now wish to ask, some difficulty existed yesterday in the mind of the Chief Secretary, and also of the honorable member for Mornington, as to how the present national collection of books, works of art, and objects of interest could be brought under the control of trustees, inasmuch as there already exist trustees for the ground. I have put the two questions on the paper, in order to suggest what appears to me an easy way out of the difficulty. The present trustees of the ground upon which the National Gallery is built feel themselves enabled to purchase pictures, which is not any part of the duty committed to them. It may be their duty to select books, but it certainly does not follow that they can select pictures. It has long been felt that some change is necessary, and I think that my second question suggests a method by which that change can be made without any risk or difficulty.

Mr. MACPHERSON.—I presume that the honorable and learned member for Dalhousie desires to have an opinion from me, inasmuch as I stated yesterday evening that I intended to get an opinion outside the Government. I do not exactly know what the honorable and learned member means by saying that the trustees are merely trustees of the land on which the building is erected. They are trustees of the building as well as of the land. From my slight knowledge of law, I do not know how other trustees can be appointed, with the present trustees, to take charge of the exhibits—books, pictures, and works of art. I do not know whether they could perform their functions without the consent of the trustees of the building. Unless they had co-equal power, some difficulty might arise. If the honorable and learned member will let the matter stand over until Tuesday, I shall probably be able to give him a more specific answer.

Mr. DUFFY.—I will postpone the question until Tuesday, when probably it will be necessary to ask an additional question, namely, whether Parliament has power to refuse to grant any further money for the purposes of the Public Library and National Gallery until more trustees are appointed?

MR. R. D. SCOTT.

Mr. MACBAIN asked the Minister of Lands whether a memorandum was left in the Lands-office by his predecessor in office, offering Mr. Robert D. Scott, late district surveyor, the alternative of accepting compensation or a pension, on his retirement from service?

Mr. McKean said he found that, on the 8th of February, 1869, the following minute was made by his predecessor in reference to this case:

"I recommend that, on the report of a board of inquiry, Mr. Scott be removed from the civil service from this date."

The determination of the Executive Council was as follows:

"Mr. Scott is to be removed from the civil service of Victoria from this date. Approved by the Governor in Council, 8th February, 1869.

J. H. Kay, Clerk of the Executive."

He also found the following minute, dated September 16:

"Recommended that the order in council of the 8th February last, removing Mr. R. D. Scott from the public service, be cancelled, and that, in accordance with the 16th clause of the Civil Service Act, the office of district surveyor at Camperdown be abolished, one month's salary for every year's service being allowed as compensation for loss of office. Approved by the Governor in Council. (Signed) J. M. Grant, for the Clerk of the Executive Council."

The following minute had likewise been placed in his hands by Mr. Skene:

"No memorandum was left in the office of Lands by the late Commissioner of Crown Lands, offering Mr. Scott, late district surveyor, Camperdown, the alternative of accepting compensation or a pension on retirement from the public service. By direction of the late Commissioner, the surveyor General acquainted Mr. Scott, by telegram, that the Cabinet had sanctioned the payment of compensation to him, and also that if Mr. Scott requested it, the Commissioner would not object to the question of a pension being taken under consideration, in lieu of the compensation sanctioned by the Cabinet."
UPPER MURRAY RAILWAY.

Dr. MACARTNEY asked the Chief Secretary what action he intended to take upon the report which he brought up from the Railway Construction Committee, in connexion with the proposed cost for construction of the North-eastern Railway?

Mr. MACPHERSON replied that, under ordinary circumstances, he would have asked the House to take the report into consideration, and would have founded some motion upon it; but, as the motion would only have affirmed what the Government intended to carry out, he did not think that the duty devolved upon him to ask the House to take the report into consideration.

Dr. MACARTNEY asked if the Government intended to carry out the recommendation of the report to construct the railway, if possible, at an expenditure of £6,000 per mile?

Mr. MACPHERSON said that the Government intended to construct the line in the most economical manner possible, consistent with safety.

At a subsequent period of the evening, Mr. McCAW asked the Minister of Railways when it was his intention to enter into contracts for the construction of the railway? He believed it was the wish of a large section of the community, particularly the farmers, that no works should be let that would involve the withdrawal of a large amount of labour from the usual channel of employment during the harvest season, which would extend over the next two months. There was likely to be a much larger harvest in the colony than ever there had been before, and several farmers who had spoken to him on the subject thought it was undesirable to commence any railway works which would employ a great amount of labour until the crops were gathered in.

Mr. LONGMORE stated that he had had the matter under consideration already, and for two or three reasons it would be impossible to enter into contracts for the construction of the railway until after the harvest. In the first place, it would be necessary to advertise for tenders thoroughly in all the Australian colonies; and another reason was that it was undesirable, under any circumstances, to withdraw harvest labour.

CRUELTY TO SHEEP.

Captain MACMAHON.—Mr. Speaker, I beg to call the attention of the Chief Secretary to the report of the evidence in the case of Brown v. Aitken, and to ask if instructions will be issued to the police to strictly enforce the law relating to cruelty to animals? The case was heard on the 13th and 15th of the present month in the Supreme Court, before His Honour the Chief Justice. The following evidence was given by the plaintiff (Mr. John Brown) with regard to a number of sheep which were seized and destroyed on the supposition that they were scabby:

"On 1st July I found the sheep killed and half-killed, hundreds of them kicking and groaning. They had been knocked down, not stuck. Plenty were kicking in the piles. Another witness (Mr. D. J. Rankin) said—

"We saw a mob of men killing and hacking the sheep. Armstrong said he found one yesterday, and he burnt it. They were tomahawking them, and waddying them, and breaking their backs; some were running about with their eyes and legs hanging out and legs broken. Mr. Myers was hacking about with a bar of iron. You could hear the moaning and lamenting 50 yards off all night. The next morning hundreds were still alive, some with legs broken, others with backs broken—hind-quarters down and fore-quarters up, and fore-quarters down and hind-quarters up. I can conscientiously say that more than half were alive though unable to get up. It was a sickening sight, and I could not stand it. Sanderson and Beveridge saw it too. Afterwards Wilson and Brown had a conversation, and Wilson advised Brown to take the offer of the squatters, and if he would settle it for £100 more it would not matter to them. I went down to where they were burning the sheep, and when they put them into the flames there were some of them kicking and moaning."

In cross-examination the witness stated—

"I was not there when they commenced killing. I found them in the act of killing them when I arrived from St. Arnaud. They were all said to be killed, but they were alive, so they were tomahawking them over again just as suited their convenience. There were not more than a dozen men engaged in killing on the Wednesday and Thursday. Aitken, Pyers, Wilson, and Myers are the only gentlemen that I could name. They were killing away at 12 o'clock next day."

The most extraordinary portion of the evidence given on this occasion was the following statement, made by the same witness, on re-examination:

"At my request the constable stationed there went for men to put them out of pain."

Another witness (Mr. W. S. Beveridge) stated—

"In June last I went up to Richardson's-bridge and found sheep slaughtered; half were dead, the others half-killed. I examined live and dead sheep, and found no scab. I did not examine them with a glass. You can detect the disease but not the insect with the eye. I
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challenged the yard to show me a scabby sheep. I went next morning and examined the sheep for two hours. There were sheep alive then."

A fourth witness (Mr. T. Anderson) said—

"The morning after his arrival at Richardson's-bridge he saw that great numbers of maimed sheep were still alive moaning."

It appears, from this evidence, given on oath, that an official of the Government must have been present on the occasion referred to. I think it is desirable that attention should be called to the matter, with the view of preventing any repetition of such disgraceful acts of cruelty. I do not believe that in any civilized country in the world such gross acts of barbarity and cruelty were ever perpetrated as those detailed in the evidence which I have read. Now that stock of this description has fallen to little or no value, I believe that, unless a stop is put to the proceedings of men who care more for a few shillings than they do for committing any amount of cruelty, we shall before long have sheep put into the boiling-pot alive. It may be expedient to appoint a special officer to take care that no unnecessary cruelty is inflicted in the destruction of sheep. It is but justice to Mr. Aitken to say that he informed me that the statements made on the trial are not true; but, considering that they were given on oath, and that a constable is said to have been sent for in order to put the sheep out of misery, and, in my opinion, it was the duty of Police to the case. Chief Commissioner of Police informed me that he did not inform me that he did not know anything of the circumstances of the case except from what appeared in the newspaper reports. As to the alleged cruelty, I may remark that the destruction of sheep in a wholesale manner cannot but be accompanied with cruelty. It is inseparable from the act itself. In all cases where a large number have to be killed I believe that the only way to do it is with a waddy. The sheep must be knocked on the head. They may kick after that, but I may safely affirm that when witnesses spoke of sheep moaning and lamenting they stated a lie. I have seen sheep suffering agony in various ways and never heard them moan. No doubt a very powerful appeal was made to the jury in this case, and, in my opinion, it was much more successful than it ought to have been. The result of the trial may be regarded by some persons in the light of a reward for scabby sheep. I shall certainly, however, call the attention of the Chief Commissioner of Police to the fact that a policeman is alleged to have been present when the sheep were destroyed; and, if any unnecessary cruelty was exercised, I shall endeavour to carry out the law as far as lies in my power.

Captain MAC MAHON.—According to the Chief Secretary, there cannot be any unnecessary cruelty in the destruction of sheep; but, whatever may be the honorable gentleman's experience in squattting, I deny that there is any necessity for the infliction of cruelty in killing sheep. It is merely for the sake of saving money that such gross cruelty as destroying sheep in this barbarous manner is perpetrated. Of course there must be cruelty to a certain extent in any case of putting an end to life, but when sheep are killed by butchers and professional slaughtermen they are treated in the most humane manner possible. If the law for the prevention of cruelty to animals is not applicable to such cases as that to which I have called attention, it might as well be regarded as a dead-letter. I think it would be better that the whole country should be scabb'd, and all the sheep destroyed, than that we, as rational human beings, should tacitly allow such disgraceful scenes to take place.

Mr. MAC BAIN.—I have not the slightest sympathy with persons who are guilty of cruelty to animals, but I think it right to state that I have made inquiries of one of the parties interested in the case of Brown v. Aitken and others, and he informs me that some portions of the evidence were not true, and that it is intended to prosecute one of the witnesses for perjury.

PETITION.

A petition was presented by Mr. RICHARDSON, from inhabitants of Ceres, in favour of the Wines, Beer, and Spirits Sale Statute Amendment Bill.
SANDHURST WATER SUPPLY.

Mr. BURROWES called the attention of the Minister of Mines to the fact that No. 4 tunnel on line of Coliban waterworks would be completed in about six months, and asked when he intended to proceed with the works north of said tunnel necessary to convey the water to Sandhurst, and if it was his intention to form a reservoir at Anderson's Flat, as originally intended, in connexion with these works? The honorable member said that until a reservoir was constructed at Anderson's Flat the Coliban waterworks would be useless, so far as the supply of the Sandhurst district with water was concerned.

Mr. J. T. SMITH stated that he had been furnished with the following information by the Chief Engineer for Water Supply:—

"No. 4 tunnel referred to will be completed in about seven months, the date of contract time expiring on the 1st July, 1870. The completion of the works from the 18-mile point to Sandhurst will be undertaken as soon as the necessary arrangements have been made to provide the required funds, which amount to £72,500, irrespective of the purchase of the Bendigo Waterworks Company and laying a new main. The Government have not yet decided upon the construction of a reservoir at Anderson's Flat, as such reservoir will only be required if the works belonging to the Bendigo Waterworks Company are not purchased by the Government."

He need scarcely add that the matter was one involving a large expenditure of public money, and that it would be necessary to obtain a vote before the works could be gone on with. He was aware that, unless additional money was granted, the expenditure which had hitherto been incurred would be rendered comparatively useless.

Mr. BURROWES inquired whether it was the intention of the Government to ask the House for the necessary money to carry on the works?

Mr. J. T. SMITH replied that three or four weeks ago he directed the officers of the department to furnish an estimate of the additional sum required to complete the works. As soon as the information was supplied he would be in a position to take action in the matter.

PASTORAL LANDS.

Mr. McKean, pursuant to order of the House (dated October 21), presented a return relating to pastoral lands.

HANSARD.

Mr. MACPHERSON, in compliance with an order of the House (dated October 27), laid on the table certain correspondence in connexion with Hansard.

ESTIMATES.

Mr. MACPHERSON brought down a message from the Governor, transmitting Estimates for the departments of the Postmaster-General, the Government Printer, and the Commissioner of Titles, in substitution of those laid on the table on February 23.

ASKING QUESTIONS.

Mr. MACKAY said he desired to ask the Speaker's ruling on a question of order. On the previous day he was not allowed to make some remarks which he desired to offer in support of a question that he submitted to the Government, but the honorable and learned member for Dalhousie was permitted, this evening, without any interruption, to address the House at considerable length in asking a question. Mr. MACGREGOR submitted that the honorable member for Sandhurst (Mr. Mackay) was not in order. The question of order on which the honorable member desired to have the opinion of the Speaker ought to have been raised at the time, and could not be submitted now.

The SPEAKER.—No doubt a question of order ought to be raised at the time at which the transaction to which it refers occurs. It is not regular for an honorable member to raise a question of order as to anything that has passed or is likely to happen. I may, however, in the present instance perhaps be permitted to say that, if an honorable member, in asking a question, makes more than explanatory remarks, he is not in order; but it rests a good deal with the House itself. The Speaker does not usually interfere in every case; but, when his attention is called to the fact that an honorable member is not in order, he is bound to do so.

WESTERN HARBOURS.

Mr. T. COPE asked the Minister of Customs if he had any objection to lay on the table the plans of the survey now in progress of the harbours of Belfast, Portland, and Warrnambool, together with the report (if any) of the surveyor, with the view of ascertaining which of those ports
would be the most eligible for a harbour of refuge for vessels of any tonnage?

Mr. COHEN, in reply to the honorable member's question, laid on the table a report of Lieut. Stanley, Admiralty Surveyor, upon the eligibility of the harbours of Belfast, Portland, and Warrnambool as harbours of refuge.

CALL OF THE HOUSE.

The House was called.

Sixty-eight members answered to their names. The absentees were Mr. Grant, Mr. Davies, Mr. Dyte, Mr. Kitto, Mr. Russell, Mr. Sullivan, Mr. Bowman, Mr. Connor, Mr. G. Paton Smith, and Mr. Bayles.

The absence of Mr. Grant, Mr. Davies, Mr. Dyte, Mr. Kitto, Mr. Russell, Mr. Sullivan, Mr. Bowman, and Mr. Connor was formally excused.

STATE AID TO RELIGION ABOLITION BILL.

The report of the committee on this Bill was considered and adopted.

Captain MAC MAHON proposed certain amendments in the new clause inserted in committee, empowering denominations to sell trust lands granted by the Crown subject to regulations to be approved of by Parliament. The object of the amendments was to enable denominations to let, sell, or otherwise dispose of the lands, and to require them to prepare the regulations.

Mr. LONGMORE thought that to allow denominations to sell such of their land as they did not require for church purposes was all that could be expected. If further powers were granted, denominations would be able to erect buildings and let them, and would thus come into competition with the owners of private property. To this he objected.

Mr. VALE urged that the point should be conceded in order that a settlement of the State aid question might be secured.

Mr. McCAW expressed the fear that, if the amendment were adopted, some churches would have to be approached through workshops. That condition of things was almost arrived at already in Melbourne.

Mr. MACBAIN thought that common decency would prevent religious denominations turning the lands on which their churches were built to any such purposes.

Mr. F. L. SMYTH considered that, if the land was presented to denominations, they should be allowed to do what they pleased with it. If they were limited to selling their land, they could with the proceeds buy other land and build upon it, and thus, by a roundabout way, the very object of the amendment could be secured.

Mr. JONES submitted that if the permission to let resulted in church lands in business localities being built upon for business purposes, the localities would be benefited, and the moneys so obtained could be employed in building churches and chapels in other places where they would be ornamental and just as useful.

The amendments were agreed to.

At a later period of the evening, Mr. MACPHERSON moved that the Bill be read a third time.

Honorable members having taken sides in order that it might be ascertained whether an absolute majority (as required by the Constitution Act) were voting for the Bill, the SPEAKER declared that the "Ayes" (numbering forty-seven) had it.

The Bill was then read a third time, and passed.

SUPPLY.

The House went into Committee of Supply.

Mr. MACPHERSON proposed the grant of £232, to complete the vote for the year of £1,400, for the Legislative Council (viz., £1,000 for the President, and £400 for the Chairman of Committees). He explained that £1,168 had been already granted on account.

Mr. McCULLOCH called attention to the fact that the vote had not been considered as a whole. The sums granted on account were granted without discussion, to allow of the passage of Supply Bills.

Mr. KERFERD observed that the salaries voted were for ten months of the year, and that therefore the committee had to deal only with the salaries for the remaining two months.

Mr. WILSON expressed the belief that, when the consideration of the Estimates for the year was first commenced, the vote for the Legislative Council was postponed in order that the Government might ascertain whether the whole of the expenses connected with the other House might not be kept within the amount of the special appropriation.
Mr. MACPHERSON explained that £700 was voted for the Legislative Council in May, and £468 in August, and that under those circumstances the committee had to deal only with the balance, namely £232.

Mr. McCULLOCH urged that it would be necessary to vote the full amount, the amount already granted being regarded as a re-vote.

Mr. KERFERD considered that, if the committee were now to vote £1,400, they would vote £1,168 more than was required.

After some further discussion, the vote was agreed to.

The next vote was for salaries, wages, and contingencies for the Medical department, which was also agreed to. The amount was £2,201 7s. 6d., which, in addition to the sum previously granted, made the vote for the year £13,214 15s.

THE ABORIGINES.

Mr. MACPHERSON then proposed that £1,050 be granted for the protection of the aborigines. He stated that £5,250 had already been granted, and that thus the total vote for the year would be £6,300.

Mr. WATKINS remarked that this vote had never been discussed. It was originally agreed that it should be one of the postponed votes, and that due notice should be given of its consideration.

Mr. COHEN explained that, as the House had already granted £5,250 of the amount, the committee could deal only with the balance, £1,050.

Mr. McCULLOCH observed that the amount referred to had not been voted in the ordinary way. The usual practice, in dealing with the Estimates, was to consider the votes and report them in detail, so that they might be fully set out in the Appropriation Bill for the year. In the case of the votes on account, only lump sums had been granted, and, if merely balances were voted now, there would be difficulty in the way of the details of the votes appearing in the Appropriation Bill.

Mr. FALLS contended that, if the committee did more than vote the balance of the estimate for the year, they would vote money twice over.

Mr. MACPHERSON stated that he had consulted the Speaker, who informed him that the mode of procedure which the Government proposed to adopt with regard to items on which a vote on account had been taken was correct. Of course the items would appear in the Appropriation Bill.

Mr. LANGTON said that was done in the English Appropriation Act on two occasions when a vote on account was taken.

Mr. WATKINS remarked that, at his instigation, a return was laid on the table last year showing the number of aborigines in the colony and the quantity of land set apart for their use. When he moved for the return he was charged with desiring to deprive the poor blacks of what little land was left to them, but his object was of a very different character. He found from the return that there were 250 persons (157 adults and 93 children) under the care of the Board for the Protection of Aborigines, and they were located at five stations, namely, Coranderry, Lake Hindmarsh, Lake Wellington, Lake Tyers, and Lake Conadah. For the use of these 250 aborigines there were reserved no less than 14,655 acres of land. From inquiries he had made he learned that there were very few blacks employed on these stations. In fact, the land appeared to be kept more for the benefit of other persons than for the use of the aborigines. Independently of the land reserved, there had been large sums of public money expended annually for the support of the aborigines. Including the vote for 1869, the amount expended during the last four years was upwards of £27,000, deducting £573 9s. 8d. for the value of the productions raised on the stations during that period. The productions, however, were not really a set-off against the expenditure, but merely the estimated value of a few articles, principally fruit, which were grown and consumed on the stations. Such, at all events, was the case at the Coranderry station, which was situated near Healesville, in the county of Evelyn, and with which he was personally acquainted. The land reserved there consisted of 4,600 acres, but instead of being devoted for the benefit of the aborigines, it seemed to be kept as a place of pleasurable resort for visitors in the summer season. He saw a number of very fine cattle on the land on one occasion, but they turned out to belong to the superintendent, who kept them for his own profit. There were 38 children of various ages on the station, but they were not taught any useful occupation. Instead of being trained so that they might become
useful servants to the farmers in the neighbourhood, they were rather encouraged to marry and remain about the station in semi-idleness. The number of them was increasing, but he regretted to say that every generation was becoming much whiter, and there was reason to fear that in course of time a little colony of half-castes would spring up, causing a great deal of trouble and expense to the State. While the land at Coranderrk was not used for the benefit of the aborigines—indeed such a large area was more than was necessary for them—the inhabitants of the district were deprived of the opportunity of selecting any of it, and hence settlement was retarded. Hitherto the aborigines had been managed by a board who depended, for the information which they received, upon the superintendents; but the new Act provided for the establishment of local committees, and he believed that great advantages would result from the adoption of that system. He trusted that the Chief Secretary and the chairman of the board would give their attention to the subject, and that if, upon inquiry, any alterations were found to be necessary, they would be effected.

Mr. BURTT protested against any attempt to diminish the area of land set apart for the use of the aborigines. He was informed on good authority that there was abundance of land available for settlement at Healesville without trenching upon the aboriginal reserve. As to the money grant, it only amounted to about 8s. per week for each of the poor blacks, and he thought that the State would not begrudge that small sum to support the remnant of the original lords of the soil.

Mr. JONES observed that the honorable member for Evelyn objected, not to lands being set apart for the use of the aborigines, but to those lands being devoted to the benefit of other persons.

Mr. MACBAIN, as chairman of the Board for the Protection of the Aborigines, expressed the opinion that the proper way to raise a discussion on this subject would be by some member moving, on another occasion, that the last report of the board, which had recently been laid on the table, be taken into consideration. He knew that a short time ago certain persons living in the neighbourhood, who coveted the fine piece of land in the possession of the aborigines at Coranderrk, endeavoured to get it thrown open for selection, and have the blacks removed further into the interior; but, on representation being made to the late Minister of Lands, the honorable gentleman promised that no interference with the reserve should be allowed. As to the reflection cast on the superintendent of the station, it was true that about six months ago he had a number of his own cattle on the land, but, upon the matter being brought under the notice of the board, the cause of complaint was removed. If any suggestion could be offered for the better management of the stations, and the improvement of the condition of the aborigines, the board would be happy to give them attentive consideration.

Mr. MCELLELLAN desired to impress upon the chairman of the board the necessity for drafting off the children, particularly the boys, to useful occupations. He believed that there was only one black child at the Coranderrk station. The boys, who were half-castes, were very intelligent, and, if ministers of religion or other charitable persons could be induced to take them into their employment, they would obtain valuable servants, and be well rewarded for their trouble. Many of these boys were much more intelligent than others who were employed in various occupations for which the descendants of the aborigines were well adapted. If they were put to service at a certain age they would become useful citizens; but, if the present state of things went on, in the course of twenty years, instead of aborigines, there would be a number of savage whites in their place.

The vote was then agreed to.

BOARD OF AGRICULTURE.

On the vote of £6,000 for the Board of Agriculture,

Mr. MACPHERSON said he hoped that the committee would agree to the vote, but next session legislation would be introduced in reference to the Board of Agriculture, about which many complaints had been made.

Mr. McCAW stated that, if the vote had been submitted early in the session, he would have opposed it. As, however, the money was no doubt already virtually expended, he would consent to the vote, on the distinct understanding that it would not be renewed next year.

Mr. RIDDELL thought that there was no necessity for honorable members to bind themselves to any action for next year, as it was intended to remodel the board,
Mr. MACGREGOR hoped that the Government would make no provision for the board next year, but take steps to abolish it.

The vote was agreed to.

IMMIGRATION.

On the vote of £3,500 for the Agent-General's department (£1,500 for the salary of the Agent-General, and £2,000 for rent of offices and other expenses),

Mr. DUFFY took the opportunity of asking the Chief Secretary whether his attention had been called to the necessity for appointing a fourth commissioner of immigration in connexion with the Agent-General? Some months ago he called the attention of the late Chief Secretary to the fact that, if the management of immigration was to be transferred to the Agent-General and commissioners, inasmuch as the existing law provided for the distribution of immigrants according to the nationalities, regard should be had in the appointment of the commissioners to the same principle. He suggested practically that an Irish Member of Parliament would probably be inexpedient to appoint a fourth commissioner on the basis of the nationalities, regard should be had in the appointment of the commissioners to the same principle. He suggested practically that an Irish Member of Parliament should be selected as one of the commissioners. The honorable member for Mornington concurred in the general proposition, and one of the commissionerships was left vacant with the view of making inquiries as to the proper person to be appointed to watch over the interests of Irish emigrants. In the meantime immigration was proceeding, and it was desirable that the vacancy in the board of commissioners should be filled up at once.

Mr. HIGINBOTHAM wished to ask the Chief Secretary if he was prepared to answer another question on the same subject, namely, whether the Government intended to bring under the notice of the House, before the end of the session, the subject of assisted immigration generally? If that was not their intention—and he did not desire to press the Government on the matter—he ventured to suggest that it would not be desirable to extend the arrangements at present made for the purpose of assisted immigration. The whole subject of immigration must, however, be considered by Parliament at no distant day, and, until the House dealt with it, it would probably be inexpedient to appoint an additional commissioner on the basis suggested by the honorable and learned member for Dalhousie or any other basis.

Mr. DUFFY submitted that the vacant commissioner'ship ought to be filled up without delay, and not postponed to see what decision Parliament arrived at as to what should be done in future in reference to the promotion of immigration.

Mr. MACPHERSON said that the Government would not be in a position to submit any proposal to Parliament this session on the subject of immigration, but they would be prepared to deal with it during the recess. In view of fresh legislation being required at an early date, he could not undertake to say whether the Government would appoint a fourth commissioner to watch over the interests of Irish emigrants under the existing system; but, if equity and fair dealing required the appointment, it should be made.

Mr. McCULLOCH observed that the sole reason why he did not appoint a fourth commissioner before he left office was because a suitable gentleman had not been named. It was absolutely necessary that there should be commissioners in England whether immigration was continued or not. They were required in order to advise the Agent-General, through whose hands a far larger amount of money passed than ought to be intrusted to any individual. It was only right to the Agent-General himself that there should be such a check.

After some remarks from Mr. FELLOWS and Captain MAC MAHON,

Mr. MACPHERSON repeated that he was prepared to appoint a fourth commissioner to represent Ireland if he found that equity demanded that the appointment should be made. He would consider the matter between now and Tuesday, when he would give a definite answer. He would even go so far as to say that, if he thought it desirable to have a fourth commissioner, and obtained the name of a suitable gentleman, he would make the appointment without delay.

Mr. DUFFY remarked that the honorable gentleman's colleague, the Attorney-General, could recommend him a suitable person at once.

The vote was then agreed to.

CHARITABLE INSTITUTIONS.

Mr. MACPHERSON moved that £18,666 be granted for charitable institutions. This would make the total sum voted £112,000. It was intended, however, to ask for an extra vote, and he suggested that the discussion should be postponed until the Additional Estimate was submitted.
Mr. JONES urged that there would be no advantage in postponing the discussion of the plan of distribution until a later period of the session.

Mr. MACPHERSON said that the Government were anxious to get the postponed votes disposed of. When the Additional Estimate for charitable institutions was substituted the plan of distribution could be discussed.

Mr. McCULLOCH remarked that when the Additional Estimate was considered honorable members would be confined to the discussion of the items composing it, and would be prevented from dealing with the general plan of distribution.

Mr. KERFERD did not think anything would be gained by postponing the discussion.

Mr. DUFFY called attention to the necessity for putting an addendum, providing that the grants to charitable institutions should be paid quarterly. An arrangement of the kind would obviate the necessity for borrowing money at a high rate of interest, which the institutions had to do sometimes, owing to the irregularity of the State payments. The late Chief Secretary had agreed to the making of such an addendum.

Mr. McCULLOCH contended that when the Estimates for the year were being closed up, it was only right that the distribution of the whole charitable vote should be taken into consideration.

Mr. MACPHERSON said, as he understood the rules of procedure, the postponed votes must be dealt with before the additional votes were taken into consideration. He did not propose to consider the schedule of distribution until the additional votes were before the committee. As near as possible the old mode of distribution would be adopted. With regard to the suggestion of the honorable and learned member for Dalhousie, he proposed, if the vote passed, to add to it a note to the effect indicated.

Mr. LALOR asked the amount of the additional votes?

Mr. McCULLOCH said, according to a schedule which had been distributed, the amount was £7,050. He objected to a discussion which should apply to the whole vote being limited in its application to £7,050.

Mr. LANGTON observed that no alteration could be made in the distribution of the £93,000 already voted. All that could be affected by any arrangement which might now be arrived at as to the matter of distribution was the balance of £18,000. It was obvious that, if any material change was made in the mode of distribution at the close of the eleventh month of the year, very great inconvenience would result.

Mr. LONGMORE urged that, if there was anything wrong in the mode of distribution, the honorable member for Mornington had plenty of opportunities for correcting it while he was in office.

Mr. VALE considered that, although the additional items had to be brought down, the discussion should be taken now.

Mr. JONES said if the discussion could not be taken now the vote should be postponed.

Mr. LALOR desired to call attention to one or two items in the plan of distribution. He thought a glaring injustice was done to a portion of the community in the distribution of the vote.

Mr. FELLOWS said he understood the Government to desire that the discussion as to the distribution should be postponed until the additional votes were under consideration. The Government did not propose to pay any of this balance of £18,000 until that discussion was taken.

Mr. McCULLOCH asked, if that were so, why should the committee be called upon now to vote this money at all?

Mr. LANGTON thought the question was a strange one to be put by an honorable member who had been at the head of the Government so long. The youngest member of the House knew that no money could be expended until a Supply Bill or an Appropriation Bill had passed.

Mr. BUTTERS considered that what was good for nine months of the year was good for twelve. It seemed absurd to raise the question as to how £18,000 should be distributed when £93,000 had already been expended.

Mr. BERRY contended that it was impossible to consider the schedule of distribution until the supplementary vote was before the committee. He thought that, on the assurance of the Government that they should have a voice in the distribution when the supplementary vote was brought down, the committee might fairly proceed to vote the balance of the £112,000.

After some further discussion,

Mr. VALE moved that the Chairman report progress.
The committee divided—

Ayes ... ... ... ... ... 18
Noes ... ... ... ... ... 39

Mr. Bates, Mr. McCulloch,

Mr. Burrows, Mr. Miller,
Mr. Casey, Mr. Rolfe,
Mr. T. Cope, Mr. G. V. Smith,
Mr. Crews, Mr. Vale,
Mr. Frazer, Mr. Williams,
Mr. Jones, Mr. " 
Mr. Lobb, Mr. " 
Mr. Mackay, Mr. Burtt,
Mr. McCaw, Mr. Wilson.

Mr. Aspinall, Mr. Langton,
Mr. Berry, Mr. Longmore,
Mr. Blair, Dr. Macartney,
Mr. Bourke, Mr. MacBain,
Mr. Butters, Mr. McDonnell,
Mr. Callon, Mr. Macgregor,
Mr. Duffy, Capt. Mac Mahon,
Mr. Everard, Mr. Macpherson,
Mr. Farrell, Mason,
Mr. Fellowes, Mr. McKenna,
Mr. Hanna, Mr. Plummer,
Mr. Harbison, Mr. Richardson,
Mr. Harcourt, Mr. Riddell,
Mr. Higinbotham, J. T. Smith,
Mr. Humfray, Thomas,
Mr. James, Walsh,
Mr. Kerferd, Watkins,
Mr. Kernot, Tellers,
Mr. King, Tellers,
Mr. Lalor, Mr. McFelllan,
Mr. Jones, Whiteman.

Mr. JONES objected to the vote being distributed upon the same principle as was adopted last year, on the ground that it was unjust to some of the provincial districts. For instance, in 1868 the private contributions to the Melbourne Hospital were £4,732, and the Government grant amounted to £16,000, or nearly £4 to each £1 of voluntary subscriptions; whereas the local contributions to the Ballarat Benevolent Asylum were £2,642, and the Government grant was £4,000, or only a little over 32s. to each £1 raised locally. He saw no reason why Melbourne and the suburbs, with a population of 177,000, should obtain £35,000 out of the Government grant in aid of charitable institutions, while Ballarat, with a population of nearly 40,000, only received £9,700, and other towns were dealt with just as scantily.

Mr. MACKAY thought that the Government ought to give an assurance that the grant would be distributed in something like a fair proportion to the amount raised by subscriptions,

Mr. MACPHERSON stated that the principle upon which the Government acted was that the poor and infirm must be supported. As a general rule, local subscriptions were supplemented by three times their amount; but this was not always adhered to. If an institution required altogether £4,000, and collected £2,000, it only received £2,000 from the State; it not being supposed that any other object was desired than the mere support of the poor. On the other hand, if the requirements of an institution could not be met by less than £10,000, and only £3,000 was raised by private subscriptions, the State contributed £7,000. He admitted this mode was apparently inequitable, and not calculated to encourage local efforts, but it was impossible to make any serious alteration in the plan of distribution this year.

Mr. HUMFRAY urged that Ballarat was entitled to receive £22,000 out of the grant, instead of only £9,700.

Mr. BUTTERS remarked that many persons sent from the country districts to Melbourne became patients in the various charitable institutions of the city, and hence the great demand made upon the funds of those institutions.

Mr. COHEN said that at the present time there were between thirty and forty Ballarat patients in the Melbourne Hospital, and a great many paupers from Ballarat and other provincial districts might be found in the Benevolent Asylum and other charitable institutions of the city.

Mr. VALE observed that Ballarat, like Melbourne, was a centre in which the poverty of the surrounding district congregated. Chinese lepers had travelled from all parts of the country to Ballarat. In consequence of the demands made upon them by the influx of poor and infirm persons from the neighbouring localities, the charitable institutions of Ballarat were unable to keep out of debt, notwithstanding the public spirit with which they were managed and supported, and for this reason they deserved liberal consideration in the distribution of the vote.

Mr. JAMES gave an unqualified contradiction to the insinuation that Ballarat sent its paupers to Melbourne. He also stated that all the charitable institutions of Ballarat were at the present time heavily in debt, and unable to keep pace with the increasing demands made upon them. They had never yet received their fair share of the Government grant.
Mr. **LALOR** complained that it was only proposed to allow £500 towards the building of the Female Refuge, Abbotsford, although the late Government had promised £1,000; also that the amount proposed to be allotted to the Protestant Orphan Asylum was £5,000 (exclusive of £500 for buildings), while St. Vincent de Paul’s Orphanage, which supported about the same number of children, was only to receive £3,000. He asked what justification there was for such different treatment of two institutions, and whether it was attributable to sectarian prejudice?

Mr. **JONES** mentioned that the committee of the Ballarat Benevolent Asylum had erected an additional wing to that institution, to be called the Alfred wing, on the faith of a promise made by the late Chief Secretary that they should receive £1,000 from the State towards the cost of it. He desired to know if that promise would be carried out?

Mr. **COHEN** intimated that, if any promise had been made, the Government would be disposed to endeavour to give effect to it.

The vote was then agreed to, as was also a vote of £761 3s. 4d. (making a total for the year of £4,568 6s. 8d.) for the outdoor staff of the Public Works department.

**PUBLIC INSTRUCTION.**

On the vote of £29,384 18s. 4d. for education (making the total vote for the year £176,093 6s. 8d.),

Mr. **MACPHERSON** said he observed that the honorable and learned member for Brighton had given notice of his intention to propose that the following condition be attached to the vote:—

“That no part of the above grant be applied in aid of any school not vested in the Board of Education, unless such school shall have been established before 1st January, 1869, and shall have received aid from the consolidated revenue during the whole or some part of the year 1868.”

He regretted that the question involved in this resolution should be brought forward for discussion during the consideration of the Estimates. It was a question of so much importance that he believed it should form the subject of a Bill, to be introduced next session, which would deal with it in the manner in which the opinion of the House and of the country had already indicated. There had previously been two discussions on the question, and he believed he was correct in saying that on both occasions the feeling expressed by honorable members was that, in any new scheme of education, religious and secular instruction must be severe once and for all. Any Government that might be in power next session—or at all events some member of the Government—must be prepared to bring in a measure to give effect to the wishes of the House. Either as a private member, or as a Minister, he should be prepared to support such a Bill. Of course he was now only speaking in his individual capacity, and was not pledging his colleagues in any way.

He did not, however, think it desirable to pass the resolution which the honorable and learned member for Brighton intended to propose in connexion with the Estimates. There was one difficulty in the way of it. It was proposed to allow £2,000 for schools in rural districts, but, if the proposed condition were attached to the vote, he believed that the Board of Education would be precluded from granting that assistance to those schools. He would ask the honorable and learned member if it was worth while to press the resolution, considering that early next session the whole question must be re-opened and dealt with?

Mr. **HIGINBOTHAM** remarked that he would only occupy the attention of the committee for a short time in moving the resolution. He rejoiced that the Chief Secretary had expressed his views on the really only important part of the subject, and that, whether as a private member or as the head of the Government, the honorable gentleman would be prepared to support the severance of religious and secular instruction in any future system of education that might be established. His (Mr. Higinbotham’s) sole object in giving notice of the resolution was to lessen the difficulty that would assuredly be felt by the Legislature when it came to deal with this question, owing to the fact that a large number of schools in connexion with religious denominations had already received assistance from the Board of Education. He desired to prevent the increase of that difficulty. It would be a difficulty whenever the subject of education came to be considered, and the more schools there were, in connexion with the denominations, placed under the board and receiving assistance from the board, the greater would be the difficulties that would be felt by a Government which wholly and decisively dealt with the subject of
public education. It was simply with the view of preventing the unnecessary increase of that source of difficulty and embarrassment that he proposed the resolution. When he gave notice of it, honorable members had, in fact, accepted the principle that the State should not continue any longer to associate itself with education connected with the denominations, by the omission of "schools" from the clause enabling grants of land to be made for public purposes. The Legislative Assembly, therefore, appeared to have assented, by anticipation, to the resolution, so that, in submitting it, he was not proposing anything which was likely to be opposed to the views of the majority of members. He found that the Board of Education, in their report, pointed out that, if the motion were passed, it would render inoperative the vote of £2,000 proposed to be taken for instruction in rural districts. The board went on to state:

"We also stated that, while in other respects we submitted ourselves to the wisdom of the Legislature, we were of opinion that it would be desirable to take the £2,000 as a separate vote. We have since received intimation from the Government that this vote will be taken separately."

He entirely concurred with the proposal to grant £2,000 for that purpose, and he suggested to the Postmaster-General of the late Administration that this £2,000 should be proposed in a separate form, for the purpose of preventing the resolution of which he had given notice being applied to it in the event of its being carried. In order to give effect to the views of the commissioners, he proposed to amend the motion, so as to allow £2,000 to be applied to the purposes of instruction in the rural districts. He also proposed to substitute the "30th June, 1869," for the "1st January, 1869," with the view of meeting the case of any schools which had been established by the board during the early part of the present year, before they received notice of the resolution. Any practical grievance, and any objection which might exist in the minds of the board, would be removed by this amendment. Another objection had been taken to the resolution, which he would shortly deal with. A petition was presented to the House, signed by the head of one denomination and another clergyman of the same denomination, objecting to the condition proposed to be attached to the vote, on the ground, as he understood the terms of the petition, that it would be an interference with the powers and functions of the board under the Common Schools Act—that it would be a violation of the provisions of the Act and of the regulations framed under it. The clauses of the Common Schools Act referring to the subject were the 6th and 8th. The 6th clause provided:

"To frame general regulations for the distribution of all moneys granted by the Legislature."

This implied that the moneys must be granted by the Legislature before the board had any control over them. The clause also said that it was the duty of the board—

"To see that the moneys apportioned from the grant made from the consolidated revenue for the purpose of public education be applied to the objects for which they were granted."

The eighth clause provided that general regulations might be framed by the board, which, after approval by the Governor in Council, should be published in the Government Gazette, and should have the force of law. General regulations had been framed by the board under this clause, and approved by the Governor in Council, and he was unable to find in any part of those regulations anything which either compelled the board to allot any portion of the educational vote to the purposes of non-vested schools, or which authorized the board to enter into any engagements which should bind the Legislature for the purpose of securing a grant to non-vested schools. By the 8th general regulation this notice was given to all persons interested in schools:

"The board reserve to themselves the right to judge of the expediency of establishing or maintaining schools subject to the provisions of the Common Schools Act; and all grants must depend upon the funds placed at the disposal of the board."

By another regulation it was provided that—

"The board will entertain applications for aid to new schools not proposed to be vested in the board; but this aid can only be granted under the rules for the allowances to schools."

These were the only regulations which referred to the subject, and none of them either enabled the board to enter into an engagement which should bind the Legislature, nor contained any promise on the part of the board to non-vested schools. Therefore neither the Act nor the regulations, so far as he could read them, at all interfered with the full liberty of the Legislative Assembly to grant or not to

Mr. Higgins botham.
grant any sum for the purposes of education, or interfered with its full power to say what purposes connected with education should be the purposes for which any portion of or the whole of the grant should be applied. In fact the argument contained in the petition seemed to be that the effect of the regulations, and of the Act, had been to make the grant to non-vested schools a special appropriation. If that were the effect of the regulations, then a grant for education was altogether unnecessary; the Legislature need not grant that which had been specially appropriated. If the regulations and the Act had not the effect of making a special appropriation, the House must grant the money, and might grant any amount it thought fit, and for any purpose it thought fit. The objection of the petitioners had therefore no weight whatever; but, if the committee were of opinion that there was any weight in it, there was a means by which it could easily be removed, namely, postponing the grant until the Board of Education furnished the Government with a detailed statement of their requirements for the year. If the committee had any doubt on the subject, he would ask them to adopt that course. At this advanced period, the board's estimate for the year was fully completed; and he had little doubt that, since notice of the motion was given, the board had not granted aid to new non-vested schools. If the board furnished a detailed estimate of their proposed expenditure for the year, and the Government laid it before the House, it would not be disputed that the House was not prevented by any cause whatever from either granting or refusing to grant any of the items contained in the estimate. He repeated that his sole object was to prevent a source of great embarrassment and difficulty being increased by the time that the Legislature came to deal with the question of secular or so-called religious education, and he trusted that honorable members would not shrink from checking that difficulty by adopting the resolution which he desired to submit to their consideration. The honorable member concluded by proposing that the following condition be attached to the vote:—

"On condition that £2,000 of the above grant be applied to the purpose of instruction, in the rural districts, and that no part of the balance of the grant be applied in aid of any school not vested in the Board of Education unless such school shall have been established before 30th June, 1869, and shall have received aid from the consolidated revenue during the whole or some part of the first half of the year 1869."

Mr. FELLOWS submitted to the Chairman that the amendment would repeal a portion of the Common Schools Act, and that therefore it was not admissible into an Appropriation Bill, which was limited to the mere appropriation of moneys granted. The 10th section of the Common Schools Act provided that—

"No new school . . . . shall receive aid from the consolidated revenue which shall be established within two miles of a school already receiving aid from the consolidated revenue."

The effect of the amendment would be to repeal that provision, because it asserted, by implication, that schools within that limit should receive aid under certain circumstances. Certainly two such enactments would be in conflict with each other, and therefore the latest, in point of time, would operate as a repeal of the other. If that view of the question were correct, the amendment was inadmissible. Moreover, the Board of Education had authority, by regulations made under the Common Schools Act, to spend public money as they had hitherto spent it—namely, under the authority of law; but the amendment required them to spend it in some other way.

Mr. HIGINBOTHAM.—They would have no money to spend at all but for the Appropriation Act.

Mr. FELLOWS admitted that. He could understand the Legislature granting no money at all—that would be a remedy at once—but he could not understand a provision of an Act of Parliament being repealed by a note to a vote in an Appropriation Bill.

Mr. CASEY said he did not think the Chairman was called upon to give an opinion on the question raised by the honorable and learned member for St. Kilda (Mr. Fellows). He apprehended that, if the condition proposed by the honorable and learned member for Brighton were inserted in the Appropriation Bill, it would necessarily override a provision in the Common Schools Act. He saw no reason, if the committee desired to attach conditions to the vote, why they should not do so; but, to a certain extent, he doubted the propriety of dealing with the education question in this manner. He thought it better that the education question should be dealt with as a whole. With reference to the attempt to deprive
the various religious bodies of the opportunity of supervising the public education of the country, he thought the course was not a politic one, and was not to be justified by the manner in which public education had been conducted elsewhere. He believed that, with the exception of one or two of the states of Germany, America was the only country where public instruction was completely severed from religious education. A report by the Rev. Mr. Frazer, on the system of public schools in the United States and Canada, published recently by order of the House of Commons, showed that the system adopted in the United States for many years of dissociating religious from secular instruction had proved a mistake; that nine tenths of the universities were denominational; and that the higher branches of education could be imparted successfully only when the assistance of the various religious denominations was brought into play. Another fact which he learned from the same report was that under no condition of circumstances would the Roman Catholics join in the system of public schools established in America—that, throughout the length and breadth of the Union, Roman Catholics maintained and supported schools for themselves at their own expense.

Mr. KERFERD suggested that the discussion should be limited, at present, to the question of order, whether the amendment of the honorable and learned member for Brighton could be put from the chair.

Mr. CASEY submitted that there was nothing in the question of order. Assuming that a conflict did arise between the Common Schools Act and the Appropriation Act, should it pass with this condition, that was no reason why the question should not be put from the chair. Existing laws were constantly interfered with by propositions made in the House. To say that the hands of the Assembly were to be tied up so that an existing law could not be affected by such an amendment as that now moved, was a proposition which could not be supported. But, while contending for the power of the House, he admitted that it was unadvisable to interfere with an Act of Parliament like that relating to public education, merely by an amendment to a vote in the Appropriation Bill.

Mr. LANGTON called attention to the fact that one power intrusted to the Board of Education by the Common Schools Act was—

"To frame general regulations for the distribution of all moneys granted by the Legislature; and, subject to the provisions of this Act, to determine, as they shall see fit, upon the localities in which schools receiving aid from the consolidated revenue shall be established or maintained."

Those regulations, which had the force of law, gave, at the present time, certain claims to certain schools, which schools would have no claim at all, would absolutely be deprived of aid, if the amendment were accepted. He did not dispute the right of the House to initiate any measure it pleased, but he thought it would be a most unfortunate thing to revive, at the present time, the discussion whether an Act of the Legislature, to which both branches of the Legislature had assented, should be repealed, in any part, by the mere act of one. They were asked to alter the provisions of the Public Instruction Act by a mere resolution of the Assembly. He would put it to honorable members whether it was worth while to revive such a question at the present time. They were nearly at the end of the session. Whenever it closed, the recess must be short. Not many weeks must elapse before Parliament would be called together again to provide the Ways and Means for another year. But he appealed to honorable members whether, if this question were to be revived, there would be any prospect of getting to the end of the business of the present session within a reasonable time. He believed that the views of the honorable and learned member for Brighton on the education question could not be promoted in the least degree by the amendment. However, the objection raised by the honorable and learned member for St. Kilda appeared to be purely one of order—a question on which the committee were entitled to have the ruling of the chair—namely, whether it was consistent with parliamentary usage to attach to votes in the Appropriation Bill conditions which virtually amounted to the repeal of an Act of Parliament.

Mr. BERRY thought the honorable and learned member for Brighton had forestalled the objection taken by the last speaker, when he pointed out that if such an objection had any force whatever it could be met by postponing the vote until the details of the proposed expenditure could be laid before the House, when it would be competent for the House to disallow any of the items which might be
objected to. The Board of Education could expend only the amount of money voted by the Legislature; and it could not obtain one single pound more than the House was pleased to vote. He admitted that it was inconvenient to alter an Act of Parliament by a condition in an Appropriation Bill, and that the step should not be resorted to except under extreme circumstances. But, if he understood aright the argument of the honorable and learned member for Brighton, the amendment was not contrary to the Common Schools Act; it was quite competent for the committee to pass it without repealing any of the provisions of that Act. He was surprised at the honorable and learned member for St. Kilda (Mr. Fellows) alluding to the 10th section of the Common Schools Act as being in any way affected by the amendment. That section provided that no new school should be established within two miles of an existing school unless it had a certain number of scholars. But the amendment did not propose to establish new schools. On the contrary it tended to limit the number of schools, and therefore could not be said to be in contravention of the 10th section. He thought, as a matter of public policy, a great deal would be gained by passing the amendment. If the Chief Secretary was really in earnest when he said that early next session he should be disposed, either as Chief Secretary or as a private member, to initiate, or to do his utmost to initiate, legislation on this question, the present was a step in the right direction. It would form a clear indication of the feeling of the House with regard to secular education. But if the committee, from any reason, refused to pass the amendment, doubt would be thrown on the good faith of honorable members to deal with the question in the thorough manner indicated by the Chief Secretary. Again, circumstances might arise to delay dealing with the education question for perhaps three or four sessions. If that happened to be the case, the benefit of passing this amendment would be found, because it would at all events stop the evil growing—it would prevent it interposing still greater difficulties in the way of the settlement of the question, when the Legislature did grapple with it, than existed at present. Therefore it appeared to him that, if the legal objection had no weight—if the amendment was not in any way contrary to the latter or spirit of the Common Schools Act, or the regulations framed under it—and taking it for granted that it was the wish of the Legislature to deal with this question at an early date, the passage of the amendment would be a clearing of the ground, and an indication of the mode and way in which this phase of the education question would be dealt with. In view of the eventualities which might arise before the question was settled, he thought it would be wise policy on the part of those who desired to establish secular education to take advantage of this opportunity to stop the growth of denominationalism, which had no doubt spread considerably under the present system, although the Common Schools Act was passed with the view of stopping it. He was present at the passing of that Act; he remembered the battle which was then fought as between the national and the denominational systems; and he felt sure that, whatever might be the letter, the spirit of the Act would be carried out by the amendment proposed by the honorable and learned member for Brighton.

Mr. HIGINBOTHAM concurred with the last speaker that it was inexpedient to alter an Act of Parliament by a condition attached to a vote in the Appropriation Bill; but he failed to appreciate the objection taken by the honorable and learned member for St. Kilda (Mr. Fellows) that the amendment altered the 10th section of the Common Schools Act. Now that section provided that no new school, except an infant school, should be established within two miles of a school already receiving aid except under certain circumstances. Well, this limitation would be increased by the amendment. So far from providing that any school might be established within a distance of less than two miles from an existing school, the amendment said in effect, “You shall not establish any new school either within or beyond two miles except that school is vested in the Board of Education.” Then how did the two conflict? He failed to see any contradiction. Then as to the regulations of the Board of Education, no school had any rights whatever under those regulations; and, unless schools had rights under the regulations, the amendment could in no way conflict with the regulations. The amendment would merely control the discretion of the Board of Education in the granting of applications. The very words of the Common Schools Act contemplated that...
the Legislature might define the objects for which the grant in aid of education was made. But the honorable and learned member for St. Kilda appeared to go the length that the Legislative Assembly was bound to grant the education vote in globo. (Mr. Fellows.—"I say that it is under no obligation to grant any money.") But the honorable and learned member's argument appeared to be that if the House granted any sum for education, it must grant it as a bulk sum, without defining the particular purposes. (Mr. Fellows.—"I did not say that.") If the Legislature, according to the honorable and learned member's argument, attempted to limit the educational purposes to which the grant should be applied, it interfered either with the regulations or the Act (Mr. Fellows.—"No."). Then he must confess his failure to apprehend the objection of the honorable and learned member.

Mr. FELLOWS said his objection to the amendment was that it altered the law. The amendment would prevent applications which now, by law, could be considered, from being considered. Did not that alter the law? If the education grant was made in such a way as to prohibit or prevent the operation of the regulations of the Board of Education, the law was altered. Money voted for education, without any condition, would be expected in a way sanctioned by the Legislature indirectly, through regulations made in pursuance of an Act of Parliament; and to do anything to preclude the application of those regulations was to alter the law.

Mr. HIGINBOTHAM contended that the law would not be altered, because the regulations simply provided that the Board might consider applications, and those applications must be considered subject to the grants of the Legislature. To argue that the amendment, by prohibiting the consideration of applications, altered the law, was equivalent to arguing that the Legislature must grant a sum for education in globo—that if it were attempted to define the purpose of the grant in connexion with any one regulation, there would at once be an interference with the functions of the board.

Mr. KERFERD observed that the amendment was clearly a new condition which amounted to an alteration of the law. The Common Schools Act gave power to the Board of Education to frame regulations for the distribution of the money granted by the State; but if the Legislature took upon itself to frame regulations—and he apprehended that the condition contained in the amendment could be looked upon only in the light of a regulation—it repealed the law which gave that power to the board. Then there was the objection that it was not proper to repeal an Act of Parliament by a clause in the Appropriation Bill, because that amounted to a "tack," the subject of which could not be considered by another place, inasmuch as they had no power to alter a Money Bill. On these grounds alone he considered the amendment clearly out of order.

Mr. MACKAY apprehended that the amendment carried out the whole spirit and intent of the Common Schools Act. If hitherto the Common Schools Act had been carried out in a different spirit to that conveyed in the amendment, the Board of Education had misunderstood, and had been acting contrary to the spirit of that Act. He could not understand how a direction from the Legislative Assembly that did not override the Common Schools Act, but directed more minutely the application of public money, could be held to be something in contravention of the law. However, that was a matter which he would leave lawyers to decide for themselves, though experience showed that the legal doctors in the House always disagreed; that they raised a great dust about a question which had to be settled, after all, according to common sense. But if there was anything more certain than another, it was—as the honorable member for Geelong West (Mr. Berry) had said—that the Common Schools Act was passed by the Legislature for the purpose of putting an end to the denominational system of education. The Legislature, in dealing with that measure, sought to act in a spirit of consideration to vested interests, and so allowed denominational schools to continue, their desire being to pave the way gradually for a transition from a system of education which they did not think the best for the country, to a national system, which should know no denomination—no section of religion. The whole of the discussions at the time, and the whole spirit of the Act, would be found to be quite in accordance with what he asserted. He defied any honorable gentleman to find a single clause in the Common Schools...
Act which warranted the idea that the Board of Education had the right to increase the number of denominational schools. On the contrary, when the Board of Education extended its aid to any new denominational school, it went beyond its functions—it flew in the face of the legislation of the country. Although it might be late in the day, it was only right that the Legislature should seek to correct the mistake. The object of the Common Schools Act, which had been sedulously and persistently set aside by the action of the clergy of the colony, should now be most determinedly carried out by the Legislature.

Mr. G. V. Smith said he could not at present clearly see his way out of the legal difficulty which had been raised, and he was sure the committee could not. Therefore he thought that more time should be given for the consideration of the matter. With that view he moved that the Chairman report progress.

Dr. Macartney observed that he was no advocate for the denominational system, but if a change was to be made he thought it should be made in a different manner from that proposed by the honorable and learned member for Brighton. The honorable member for Sandhurst (Mr. Mackay) had stated that the Common Schools Act was passed in order to pave the way for the establishment of a national system of education in Victoria. But honorable members could not forget that a national system had then prevailed for ten years side by side with a denominational system; and if it had been the desire of the Legislature to abolish the denominational system, and to establish still more strongly and to perpetuate the national system, they would not have taken the action they did. To find the meaning and intention of the framers of the Act, honorable members should refer to the debate which took place when the late Mr. Heales moved for leave to introduce the measure. It was fairly set forth in that debate that the Common Schools Act was a compromise between the national and the denominational systems—a compromise into which the denominations consented to enter—rather than an Act to do away with the denominational system altogether. The preamble to the Act was as follows:

"Whereas there are now existing in the colony of Victoria two boards for the regulation of public education: and whereas it is expedient to provide for the better maintenance, establishment, and management of common schools under a uniform system."

Now, he would ask honorable members whether this preamble did not clearly declare that schools for the time to come were to be maintained, established, and managed under the name of common schools, whether denominational or national, on a uniform system? But the honorable and learned member for Brighton proposed to do away with the uniform system of management, and to administer to national common or common national schools a different course of maintenance, establishment, and management from that which it was proposed to administer to common denominational schools. Under these circumstances, was not the amendment in contravention of the preamble to the Common Schools Act?

Progress was then reported.

The House adjourned at twenty-four minutes past eleven o'clock, until Wednesday, November 24.

LEGISLATIVE COUNCIL.

Tuesday, November 23, 1869.

The President took the chair at half-past four o'clock p.m., and, in the absence of a quorum, declared the House adjourned until the following day.

LEGISLATIVE COUNCIL.

Wednesday, November 24, 1869.

Drafting Bills—Land Laws Amendment Bill—Stamps Bill.

The President took the chair at nineteen minutes past four o'clock p.m., and read the prayer.

DRAFTING BILLS.

The Hon. C. J. Jenner, pursuant to an order of the House (dated September 9), laid on the table a return relative to the cost, &c., of drafting Bills for Parliament since the Constitution Act came into operation.

PETITIONS.

Petitions were presented—in favour of the State Aid to Religion Abolition Bill, by the Hon. C. J. Jenner, from ministers and delegates of the Baptist churches of Victoria; against the same Bill, by the Hon. T. T. A'Beckett, from members of the United Church of England and
Ireland residing at Bellarine, Kensington, Drysdale, and Point Henry, near Geelong; against the provision in the Municipal Corporations Law Amendment Bill, which proposed to give precedence to mayors of boroughs, by the Hon. J. O'Shanassy, from justices of the peace of Victoria; in favour of the speedy passage of the same Bill, by the Hon. T. T. a'Beckett, from the mayor and councillors of East Collingwood; and against certain provisions of the Mining Companies Bill (No. 2), by the Hon. J. O'Shanassy, from the shareholders of the Mammoth Mining Company (limited), on Chinaman's-flat, in the district of Maryborough.

LAND LAWS AMENDMENT BILL.

This Bill was recommitted (the Hon. A. Fraser in the chair).

On clause 2, which repealed Acts Nos. 145 and 237, and preserved existing rights and liabilities,

The Hon. C. J. Jenner moved the insertion of certain words, by which the clause would commence thus:—

“The Acts numbered 145 and 237, except the 38th section of the first-mentioned Act, which section shall be read as part of this Act and with reference thereto, shall be and are hereby repealed.”

The amendment was agreed to.

On clause 3 (interpretation clause),

Mr. Jenner moved the omission of the words—

“The word 'Governor' shall mean the person administering the Government acting by and with the advice of the Executive Council.”

In subsequent clauses of the Bill he proposed to add to the word “Governor” the words “in Council,” which would compensate the omission.

The amendment was agreed to.

Mr. Jenner moved that, in clause 6, giving to the Governor power to reserve lands from sale, the words “in Council” be inserted after the word “Governor.”

The amendment was agreed to, and corresponding amendments were made throughout the Bill.

On clause 14, declaring that the Governor in Council might exempt land from selection, and revoke such exemption,

The Hon. T. T. a'Beckett moved the addition of the following words:—

“And no land held under pastoral licence and situated within half a mile of the homestead of the run, or within one quarter of a mile of the section purchased in exercise of the pre-emptive right, or of any woolshed, sheepwash, cattle-yards, reservoir, dam, or well constructed upon the run before the passing of this Act, shall be alienated under part 2 or proclaimed a common under part 4 of this Act.”

In asking the adoption of this addition to the proviso, he believed that he was asking only what a sense of justice would induce the department of Lands under ordinary circumstances to assent to. Therefore he did not apprehend that there would be any objection offered to it. He had been informed that the department at one time voluntarily proposed to do more than he now asked. He regretted to say that there seemed to have been accepted an assumption that the existing squatting interest was something that should be attacked, put down, and ignored—an assumption based upon a fanciful notion, and with no reasonable hypothesis to support it.

The Hon. J. Graham supported the amendment, and called attention to the fact that the regulations framed by the late Minister of Lands were more favorable than the terms asked for by Mr. a'Beckett.

Mr. Jenner opposed the amendment. It could not be said that the regulations referred to by Mr. Graham had been adhered to. If the amendment was carried the whole of the runs of the country would practically be beyond the reach of those who desired to select, and he cautioned the committee that, if it was desired that the Bill should become law, they should be very chary of making too many amendments in it; the measure should be dealt with in such a way as to ensure its passage in another place. He hoped Mr. a'Beckett would see the propriety of withdrawing the amendment.

The Hon. W. Campbell thought the committee might very wisely copy the law of New South Wales in this respect, and arrived at modification which would meet the views of all parties. He was most desirous that fair play should be extended on every side.

Mr. T. T. a'Beckett pointed out that all lands would be open for selection unless there were reservations of the character indicated in the amendment.

The Hon. W. H. Pettett said that he had entered into a calculation of the additional amount of acreage that would be handed over to the squatters if the amendment were carried. It would be about 10,241,000 acres, or nearly half the pastoral lands of the colony. Half-a-mile round the pre-emptive section would give
2,560 acres, and a quarter of a mile round the woolshed, sheepwash, cattle-yard, and water reservoir would give 640 acres each. He hoped the amendment would be rejected.

The Hon. J. O'Shanasssy thought the object of the committee was to limit the powers proposed to be given to, and which had been heretofore enjoyed by, the department of Lands—to remove the political bias which appeared to be a permanent feature of its administration. It appeared to him that Mr. a'Beckett was not quite certain of the successful working of his scheme, when he was met at the outset by the objection that he proposed to make exemptions of the same size for every run in the country, be it large or small. He did not believe there was a single honorable member who could be found to advocate the principle that it was proper to take from a man his right to property, the value of which he had enhanced by his enterprise and capital. No doubt it would cost a great deal of money to sink a well. In a dry country it would, he believed, cost as much as £500. Both branches of the Legislature were agreed as to the necessity of protection to bona fide improvements; and if the honorable member would withdraw his amendment, and be satisfied that the Minister should frame an equitable code of regulations to meet the case, his object would be gained.

The Hon. R. Simson supported the amendment, and expressed the opinion that the proposed reservations were nothing more than reasonable. Lands situated like those contemplated by the amendment had been rendered valuable by the improvements that had been made upon them, and he could not see why there should be a scramble for them amongst the general public, or why those who had invested their labour and capital in making the improvements should be placed in no more favorable a position than those who had not done so.

The Hon. N. Fitzgerald could not see the justice of the proposed amendment. If the committee assented to it, and the fact was established that certain reserves were to be proclaimed within the range of improvements, it would necessitate a decision from the Minister of the day as to what these improvements constituted. A dam or a well might be of the most superficial character, just as it might be of the most costly or substantial character. The carriage of the amendment would be calculated to open the door to a perpetuation of old abuses. If a man were in favour with the Minister his claim might be admitted; if he were not, it might be refused. He regarded the principle involved in the amendment as practically a re-enactment of the principle of conferring uncontrolled power on the Minister, against which the Council had resolutely set its face. How, therefore, could the committee stultify itself by adopting such a course? The best and safest plan was to establish a board, independent of all political considerations, that should deal with each question, as it arose, on its abstract merits. If such a board were constituted in accordance with the spirit that had actuated honorable members in their previous dealings with the land question, there could be no necessity for special legislation for particular interests. He could not but regard this as an insidious attempt to destroy the legislation of years past.

Mr. T. T. a'Beckett contended that, if the Bill passed as it stood, every portion of the colony would be open for selection until it was specially exempted, and therefore any man could at once—casting his eyes about to put money into his own pocket at the expense of anybody else—select wherever he pleased from the runs of the colony, unless the amendment was carried. All he wanted was that there should be some provision made in the land law of the country for the protection of certain portions of runs, until their peculiarities had been fairly considered and determined upon. He had reduced the reservation to a quarter of a mile of the pre-emptive section, woolshed, sheepwash, or other improvement, entirely on his own responsibility, and without consultation with any persons interested in the question. If it would meet the views of honorable members who differed from him, he had no objection to add to his amendment the following words:—

“Provided that the Governor in Council may, by regulations as hereinafter directed, repeal or alter any of the exemptions contained in this section, and make such other exemptions as he thinks fit.”

He had well considered the whole question during the progress of the debate, and the best test he could give of the sincerity of his conviction, that the amendment he proposed was a desirable one, was the
assurance that if his own property were of a nature to be affected by it, he should feel that the clause ought to be subjected to the proposed restriction.

Mr. O'SHANASSY observed that the proposition now submitted by Mr. a'Beckett was of a character totally different from that which he had been arguing for before. (Mr. T. T. a'Beckett—"No, it is merely a modification.") It would not be difficult to prove that there was a distinct variance between them. The first proposition went the length of guarding every run in the country, and the second was to the effect that the Governor in Council should have power to repeal or alter exemptions and do as he thought proper. He pointed out that the proposition did not assume a definite shape, for the reason that it was subject to what might be done in other portions of the Bill. Was it the object of Mr. a'Beckett to revert to the principle—a principle which had already been declared to be obnoxious—of conferring upon the Minister of the day the power of knocking on the head whatever regulations might be framed, and, by a stroke of his pen, deciding for himself? If on no other ground, on that alone the proposal was inadmissible; because there was no possible guarantee that an exemption made on one day would not be revoked on the next. Improvements, therefore, would not be protected by the amendment; because if the Governor in Council, or the Minister, chose to withdraw an exemption it could not be prevented. He suggested that Mr. a'Beckett should undertake to reconstruct the clause, and allow the committee to proceed with the Bill.

Mr. T. T. a'BECKETT expressed his willingness to accept the suggestion of Mr. O'Shanassy.

The amendment was then negatived.

Mr. JENNER moved that the following new clause be inserted at the end of part 1:

"Nothing contained in this division of this part of this Act shall apply to any land included in any city, town, borough, or village."

The clause was agreed to.

Mr. T. T. a'BECKETT proposed that the following words be added to the clause:

"Or to any land situated within half a mile of a homestead where a pre-emptive section has been granted, or within a quarter of a mile of a pre-emptive section, or woollshed. sheepwash. cattle-yard, water reservoir, tank, dam, or well, or to any land that, in the opinion of the Governor, is required to afford access to water from the back country."

Mr. JENNER observed that this amendment was in substance precisely similar to that which had just been rejected, and objected to the discussion on the subject being reopened now that several honorable members who were present when it was previously discussed were absent.

The Hon. J. F. STRACHAN understood that the question involved in the present amendment had been settled by the rejection of the previous one. The committee were unanimous in its view that the interests of the squatters should be protected in some way so far as improvements were concerned, but not in the way proposed. He asked Mr. a'Beckett not to press an amendment which he felt sure would not find favour at the hands of the other branch of the Legislature.

Mr. T. T. a'BECKETT disclaimed any desire to take advantage of an accident, which changed the character of the committee, to carry through a principle which he regarded as one of great importance, and, upon which every honorable member should have an opportunity of expressing his views. He had been impressed with the remarks of the last speaker, and, on the understanding that he was not to be deterred from afterwards bringing forward a clause that would embody his opinion, and which he hoped would commend itself to the committee, he would withdraw his amendment and allow the clause to remain for the present as it stood. He would endeavour to frame a clause which would save from spoliation the class whose interest he considered it only common justice to protect.

The amendment was withdrawn.

On clause 19 defining the conditions of licence,

Mr. JENNER moved that the second condition be amended so as to read as follows:—

"A condition that the licensee will not, during the currency of such licence, assign the licence, nor transfer his right, title, and interest therein or in the allotment therein described or any part thereof, nor sublet the said allotment or any part thereof and that the licence shall become absolutely void on assignment of such licence, whether by operation of law or otherwise, or upon the said allotment or any part thereof being sublet."

The amendment was agreed to.

Mr. T. T. a'BECKETT proposed that the following words be added to the clause:

"And if the allotment shall include any feuse, hut, stockyard, or other improvements made before the passing of this Act upon land held
under pastoral licence, when the licence under this part issues such licence shall also contain a condition for payment of the value of any such improvements by the licensee under this part to the pastoral licensee upon the ascertainment thereof, which shall be determined by arbitration between the board and the pastoral licensee within four months from the issue of the licence in manner hereinafter provided with respect to improvements made by a licensee under this part.

The amendment was agreed to.

Mr. JENNER moved that clause 22, providing that unauthorized occupiers under forfeited licences might be forcibly dispossessed, be struck out. He explained that, in view of new clauses which it was proposed to introduce into the Bill, on the basis of the Caveat Board of Tasmania, this clause was rendered unnecessary.

The clause was struck out.

On clause 30, providing that holders of licences under the 42nd section of the Act of 1865 should have pre-emption, Mr. JENNER moved that the proviso be struck out, and that the following words be substituted:—

"or otherwise such licensee may demand and obtain a lease of the said allotment for the same term, at the same rent, and with the same covenants and conditions, rights, duties, and consequences as are hereinafter provided in the case of leases granted to licensees under this division of this part of this Act."

The amendment was agreed to.

On clause 32, providing that selectors under the 12th section of the Land Act of 1865 should have the same privileges as selectors under the Bill, Mr. JENNER moved that the early portion of the clause, as follows, be struck out:—

"Every lessee under the 12th section of the Amending Land Act who shall have obtained from the board a certificate that he has complied with the conditions respecting residence and improvements and all other conditions and covenants of his lease, or the assigns or transferees of such lessee;"

with a view to the substitution of the following words:—

"Where any person is the lessee of an allotment under the first subdivision of the second part of the Amending Land Act 1865, whether he has or has not resided on such allotment, if the board certify that he has complied with the condition respecting improvements, and the other covenants and conditions of his lease, every such lessee, his executors, administrators, or assigns;"

The amendment was agreed to.

On clause 88, being the commencement of part 6, relating to trespasses and penalties,

Mr. O'SHANASSY intimated that he had certain new clauses drafted, which he desired to submit at this point. The object of them was to remove a feeling which was very strong in the public mind, that the tribunal of the department of Lands, instead of being impartial, had practically become a political institution. He thought the clauses would commend themselves to honorable members, and that the committee was justified in making the experiment of creating a perfectly independent tribunal, from whom justice could be obtained by all classes of the community. Under the existing system the Minister of the day was both judge and jury, and could decide upon cases in any way he pleased, so long as he had a parliamentary majority. He contended that, on grounds of equity and justice, the Minister ought to be amenable to the tribunal of Parliament, and be called upon to defend his action. If he had acted rightly the person who had brought charges against him would suffer; and if, on the other hand, he had acted wrongly, the injured person would receive justice. By the proposed clauses power would be given to settle mining disputes as well as others. The court, to be called the "Lands Court," would consist of three commissioners, who should be barristers of not less than five years' standing. It was a question for the committee to determine, whether that term or seven years should be fixed.

The commissioners were not to be removable, so that they would not be under the influence of the Minister for the time being, although they would be subject to the review of Parliament. They would be required to take an oath, and then they would proceed to take evidence; and on this point alone a great advantage would be gained. The court could sit in any part of the country, and move about from one place to another; thus saving great expense in the travelling of witnesses and other parties interested. The proposed process would be alike inexpensive and expeditious, whilst it would afford every possible means for justice being obtained. It was also proposed that the rules and regulations under which the court proceeded, should be submitted to the Supreme Court; and, with regard to the fees to be paid by parties coming before the commissioners, although small, they would be sufficient to cover the expense of working the court, which would be done as economically as possible.
the evidence in only the preliminary portion of the two cases of inquiry in reference to the Lands department which had been recently going on, had cost the colony £750. If, therefore, there were no other reasons assignable for the establishment of this court, that of economy would be sufficient; but it was far otherwise. It was in every respect desirable, and especially so in order that an end might be put to the statements that were made almost daily in the newspapers and elsewhere, in reference to the political influence exercised in the Lands department. He concluded by moving the adoption of the following clauses:—

"A. For the purpose of hearing and determining disputes relating to Crown lands, there shall be a Court styled the 'Lands Court,' consisting of three commissioners, one of whom shall be a barrister-at-law of not less than seven years' standing, or shall have served for not less than seven years in the public service of Victoria as a police magistrate or warden, and during the continuance of this Act shall hold his office during his good behaviour, but may be removed therefrom by the Governor upon the address of both Houses of Parliament, and shall be paid from the consolidated revenues of a salary of £150.

"B. Every such commissioner shall have power to examine the same, and has been hereby required to examine the same, and has been adjoinable in law without any other order, summons, or adjudication.

"C. Every such commissioner, before he commences the duty of his office, shall take and subscribe before one of the judges of the Supreme Court the oath contained in the fourth schedule hereto.

"D. In case of the illness or absence upon leave of any commissioner the Governor in Council may appoint some other person qualified, as aforesaid, to act as his deputy, and every such deputy shall during the time for which he is appointed, have all the powers and perform all the duties of the commissioner for whom he shall have been so appointed.

"E. The commissioner or any two of them may from time to time make rules for regulating the practice of their court, and for conducting the business thereof, and for determining the costs and fees of practitioners, and the expenses of witnesses payable therein; but no such rule shall have any force or effect unless and until it has been allowed by the judges of the Supreme Court, who are hereby required to examine the same, and has been published in the Government Gazette.

"F. The commissioners shall have power to hear, receive, and examine evidence, and shall upon such days as they shall appoint sit in open court at such places as the Governor in Council may from time to time direct.

"G. Any party to any proceedings before the Lands Court may obtain at the offices of the clerk of the court summons to witnesses under the seal of the court, to be served at the option of such party either by himself or by the proper officer of the court, with or without a clause requiring the production of books, deeds, papers, and writings in the possession or under their control.

"H. Every person on whom any such summons shall have been served either personally or in such other manner as the rules of the commissioners as aforesaid direct, and to whom at the same time payment or a tender of his expenses shall have been made according to the scale provided in the rules as aforesaid, and who shall refuse or neglect without sufficient cause to appear, shall pay such fine not exceeding £20 as the court shall adjudge; but no such fine shall exempt any person from any action for disobeying such summonses.

"I. The 18th and 19th sections of the Statute of Evidence 1864, shall be extended to the Lands Court as if it had been named therein; and the commissioners shall have the same powers as the Judges of the Supreme Court, or a judge thereof, to enforce obedience to and to punish disobedience of orders made under the said sections.

"J. If any person willfully insult any such commissioner or clerk, or any officer of the Lands Court during his sitting or attendance in court, or willfully interrupt the proceedings of such court, or being summoned or examined as a witness in any suit or proceeding in such court shall be a court of record, and shall have a seal; and shall be a court of record, and shall have a seal; and shall be sufficient in law without any other order, summons, or adjudication.

"K. The commissioners shall hear and determine all matters whether of law or of fact in dispute between the Board of Land and Works and any other person touching all dealings whether acts or forbearances with Crown lands under this Act or under the Land Act 1862, or the Amending Land Act 1865, prior to the issue of the Crown grant in fee thereof, and with the right, title, and interest therein and the boundaries and the unauthorized occupation thereof; and touching the creation, alteration, or extinction of any estate or interest therein, and the performance of any covenants, conditions, or obligations affecting the same in any instrument executed or purporting to be executed in pursuance of any of the said Acts; and touching the grant of any lease or licence under the first part of the Statute 1869, or to the like effect, and such order shall be sufficient in law without any other order, summons, or adjudication.

Hon. J. O'Shanassy.
For the purposes of this part of this Act, the board shall be taken to be the owner in fee of the Crown lands respecting which the dispute has arisen, and any promises in writing by or by the direction of the Commissioner of Crown Lands and survey to recommend any matter or thing concerning such land to the Governor shall in all proceedings before the Lands Court be taken to be evidence of a promise under its seal by the board to do or to forbear from doing such matter or thing.

M. In all proceedings under this part of this Act the commissioners may at any stage of the proceedings require any person whom they think fit to be made a party to the suit or proceeding.

N. Any person may by leave of the commissioners commence a suit against any other person for any violation of the provisions of any of the said Acts that would, if the proceedings were instituted by the board, have come within the jurisdiction of the commissioners; but every such person shall make the board a party to such suit, and shall give such security for costs as the commissioners may require.

O. In all proceedings under this part of this Act all the costs therein shall be assessed by the commissioners, and shall be paid and apportioned between the parties in such manner as the commissioners may recommend, and in default of any specific direction, such costs so assessed shall abide the event of the suit or proceeding.

P. When the commissioners have pronounced any judgment, decree, or order they may direct that a certificate thereof shall be sent to the Governor for his information, that he may execute or forbear to execute any conveyance therein mentioned or otherwise give effect to the same, or may direct that any judgment, decree, or order they may direct that to be made a party to the suit or proceeding.

Q. The provisions of the sections numbered 150 to 156 both inclusive, of the Justices of the Peace Statute 1855, respecting appeals in summary cases to the Supreme Court, shall apply to the determinations of the commissioners under this part of this Act, and shall be enforced accordingly.

The clauses were agreed to.

The Act should continue in force until 1880.

Mr. PETTETT moved that "1875" be substituted for "1880."

Mr. JENNER opposed the amendment, on the ground that the date fixed was a fair compromise to meet the great many reverses that had overtaken the squatters during the past few years, and which had so greatly depreciated the value of their positions.

The amendment was negatived.

Mr. O'SHANASSY moved the addition of the following schedule, which was rendered necessary by the new clauses that had been introduced for the establishment of the Lands Court:

I. A.B., do solemnly swear that I will faithfully, impartially, and to the best of my ability execute the duties which shall devolve upon me as a commissioner of the Lands Court under the provisions of the Land Act 1869."

The Bill was then reported, with further amendments.

STAMPS BILL.

The Hon. C. J. JENNER moved that this Bill be read a second time.

The motion was agreed to, and the Bill was read a second time and passed through committee, and reported with formal amendments.

The House adjourned at twenty minutes past eleven o'clock.

LEGISLATIVE ASSEMBLY.

Wednesday, November 24, 1869.


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

THE QUEEN v. LACKERSTEIN.

Mr. KING called attention to the fact that, on the 26th June, 1868, the House adopted the following resolution:

"That this House will not recognise any contract for the payment of money arising out of any claim against the Crown referred to arbitration, unless the consent of this House to such arbitration be previously obtained."

He desired to ask the Minister of Customs how it was that, in violation of this resolution—in contempt of the unanimous desire of the House—an arbitration was permitted in the case of The Queen v. Lackerstein, in which, as he understood, an award of something like £5,000 had been given against the Government?

Mr. COHEN observed that the award was for nothing like £5,000. The amount of the award was £375, and the costs came to a few hundred pounds more; but he did not suppose that the whole expense would exceed £1,000. The arbitration was agreed to by the late Minister of Customs (Mr. Rolfe), pursuant to a previous arrangement. The Customs Act empowered the department to go to arbitration in cases of dispute.
Mr. KING inquired whether he was to understand that a resolution of the House went for nothing?

Mr. COHEN remarked that a resolution of the House did not override the law.

Mr. KERFERD observed that a resolution of the House had force only for the session in which it was passed.

Mr. VALE said he understood that it was the intention of the late Attorney-General not to allow the matter to go to arbitration until it had been brought before the House, and its assent to the proceeding obtained.

Mr. ROLFE observed that, when he took office, he found in the department a minute left by Mr. Francis in reference to the arbitration. He did not quite agree with the terms of the arbitration, but he accepted them because they were in accordance with the Act. He was unaware, at the time, of the resolution passed by the House.

Mr. COHEN said the arbitration bond was drawn out under the direction of the late Attorney-General, and approved of by him.

THE SANDHURST MAGISTRATES AND THE BOY CANNING.

Mr. ASPINALL.—I beg to call the attention of the Attorney-General to the case reported in the Bendigo Advertiser of the 12th inst., of a boy named Canning, who, on Thursday, November 11, was, at the Sandhurst Police-court, ordered to undergo a sentence of forty-eight hours' imprisonment, and to be sent to the Reformatory afterwards for a period of five years. A scene in court immediately took place. The mother of the boy, throwing herself on her knees, prayed the bench to be lenient to him. Mr. McLachlan was immovable, and the woman was removed by the police.

Now, to me, it certainly seems an outrage, in any civilized community, under any Act, to inflict, for a boyish freak, a punishment much heavier than is awarded to some of the deepest and direst criminals. Here is a boy of tender age taken away from his natural protectors to be put not under better teachers, as far as I am aware, but where, if there are young criminals in the place, he will be polluted by association with those young criminals for a number of years. At the time I gave notice of my intention to refer to the law I was utterly unacquainted with the facts of the case, save as I found them recorded in the local newspaper. I took action simply because I felt outraged at the notion that, for so trifling an offence, a child should be torn from his parents and sentenced to such a punishment. It appears that, in consequence of my well-meant interference in the matter, it occurred to some of the authorities at Sandhurst—I don't know whether it was the magistrate.
or the police—that something further could be done in this case. In consequence of my interference, of which neither child, nor father, nor mother knew anything until the fact was mentioned in the newspapers—although in the notice which I placed on the paper there is nothing affecting the magistrate or the police, in the way of censure or offence—further proceedings have been taken, which I say are an insult, not only to myself but to the House, for venturing to deal, on public grounds, with a matter of public importance. I find the following in the Bendigo Advertiser of yesterday:—

"James Canning was summoned to show cause why he did not maintain his child in the Industrial Schools, Melbourne. Mr. Mottram, who appeared for the defence, said he had nothing whatever to do with the question put to the Attorney-General the other day, and he was willing to pay whatever the Bench thought right. Mr. McLachlan (the presiding magistrate) said, if the defendant had nothing to do with the question asked in Parliament, it certainly had done him a deal of harm. He made an order for the payment of 5s. a week."

I feel that, until this matter is rectified, upon my shoulders rests the responsibility of the father having to make this payment. I also feel that if the magistrate expressed himself in the way attributed to him, because of an unfortunate remark of mine in this House, he is not fit to be a magistrate. I call upon the Attorney-General to put a stop to such proceedings.

Mr. McDonnell.—I knew nothing of the circumstances of this case until my attention was directed to them by the notice which the honorable and learned member for St. Kilda (Mr. Aspinall) placed on the paper last week. I then took steps for the purpose of ascertaining the real facts of the case. I have caused a searching investigation to be made, but I am not yet in possession of the result. The moment it reaches me, I will communicate it to the honorable and learned member.

LAND GRANTS FOR SCHOOLS.

Mr. Vale moved—

"That there be laid upon the table of this House a return showing the reservations of land for school purposes made in connexion with the reservation for church purposes, stating cases (if any) in which the portion of land for school purposes was not defined in the reservation or Crown grant."

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

UPPER MURRAY RAILWAY.

The resolution (passed in committee on November 16) sanctioning the expenditure of £3,000 for salaries, wages, and contingencies in connexion with surveys, &c., on the Upper Murray Railway was reported to the House.

The House then went into committee for the purpose of resuming the discussion on the motion for the adoption of the following estimate for works, &c., under the Railway Loan Act (adjourned from November 17):—

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase of land, clearing and fencing, level crossings, earth-works, bridges, culverts, &amp;c.</td>
<td>£180,000 0 0</td>
</tr>
<tr>
<td>Road across Wodonga-flat</td>
<td>£10,000 0 0</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>£190,000 0 0</strong></td>
</tr>
</tbody>
</table>

Captain MacMahon said he could not understand why the proposed railway should not be carried right to the banks of the Murray. It did seem strange for the line to stop short about a mile from the river, and the intervening space to be covered merely by an ordinary roadway.

Mr. Longmore observed that he should have no objection to the railway going to the banks of the Murray, if there were no engineering difficulties to contend against; but he could not make any promise on the subject without first having a proper report. He was assured that, owing to the large culverts necessary to be constructed, a good roadway would cost £10,000.

Mr. Jones said an argument in favour of having the terminus of the line at the place proposed was that a town on the Victorian side of the Murray would have the benefit of the traffic, whereas, if the terminus were at the river, the benefits of the traffic would be enjoyed chiefly by a town in New South Wales. He considered it the business of the House to legislate for Victorian interests rather than the interests of New South Wales.

Mr. Kerferd remarked that the road proposed to be constructed would be of sufficient strength to carry a line of rails, and thus trucks from Melbourne could be taken to the river to discharge their cargoes into steamers. There were many serious objections to placing the terminus on the banks of the Murray. One was that probably a safe site could not be found. Wodonga-flat was a sort of natural reservoir to take off the surplus waters of the Murray, in time of flood; as the river fell, the waters stored on the flat escaped. It was necessary, in order that the proposed
road should be a success, that there should be abundant water-way. To ensure this, the road would have to be built, nearly the whole distance, on piles. For want of this precaution, a roadway which cost some £7,000 or £8,000 had been washed away. A roadway was absolutely essential to bring traffic from Albury to Wodonga; and it was necessary for Victorian interests that the railway terminus should be at Wodonga rather than on the banks of the Murray.

Captain MAC MAHON said his objection would be met if the road were made to carry rails. Were this not done, the proceeding would be like giving a road to the district at the cost of the Railway department.

Mr. LONGMORE expressed the conviction that without a road across the Wodonga-flat the railway would be useless. If the roadway were made to carry rails, he did not think that £10,000 would meet the cost.

Mr. VALE asked if the road across Wodonga-flat would be a public road or a road to be held as Government property attached to the railway, so that if, in the first instance, it was constructed as an ordinary road, it could subsequently be converted into a railway? It might turn out hereafter to be essential to the success of the railway that permanent wharfage accommodation should be constructed on the banks of the Murray.

Mr. LONGMORE stated that the roadway would be confined at first to ordinary road traffic; and that he considered it ought to remain under the control of the Railway department.

Mr. MACKAY objected to public interests being made subservient to local interests, as was proposed in this matter of erecting the railway terminus at Wodonga. There was no practical difficulty in the way of taking the railway to the banks of the Murray. To carry the railway to within two miles of the river and then to condemn persons to transport their goods to the river steamers by means of bullock waggons was, to his mind, an illustration of the art "how not to do it." If a road had to be made across Wodonga-flat, it should be made in such a manner as to carry a railway. Anything short of taking the line to the Murray would spoil a very fine idea, and would make a great public undertaking a mere truckling to private interests.

Mr. G. V. SMITH remarked that there could be no difficulty in making the road sufficiently wide to carry a line of rails, but he considered that it would not be safe to build the station which would form the terminus of the North-eastern Railway on the banks of the Murray.

Mr. JONES observed that the inhabitants of Albury had themselves proposed to be at the cost of putting down a line of rails on the road over Wodonga-flat, so as to connect the railway with Albury. If this overture were entertained, the Government could make their own terms on which the rails should be put down, and on which they might become the possessors of the line at a reasonable rate whenever it might suit their purpose to take possession.

Mr. HANNA thought it a wise and economical arrangement to expend £10,000, as proposed by the Government, on a road across Wodonga-flat. He objected to the railway being taken to the Murray, because then Albury would get the benefit of the traffic instead of Belvoir.

Captain MAC MAHON considered that some of the most extraordinary ideas conceivable in connexion with railway inter-communication had been broached in the course of the discussion. He was surprised at honorable members entertaining the notion of carrying a railway to within a couple of miles of the Murray, and there stopping short, simply because otherwise a town on the opposite side of the river would be benefited. He could understand the people of Wodonga being in favour of such an arrangement, because it would cause teams to come to and stay in their town, and thus the welfare of that place would be promoted. But he presumed honorable members desired to legislate for the interests of the whole colony. Under these circumstances he would move the insertion, after the words "Road across Wodonga-flat," of the words "so constructed as to carry a line of rails."

Mr. KERFERD observed that it was necessary for the safety of the buildings that the railway terminus should be on high ground above the flats; and, to secure a suitable site, there was no other resource than to go as far back from the river as the township of Wodonga.

Captain MacMahon's amendment was accepted, and the estimate, as amended, was agreed to.

The resolution was then reported to the House.
SUPPLY.

The resolutions passed in Committee of Supply on Thursday, November 18, were considered and adopted.

The House then went into Committee of Supply.

PUBLIC INSTRUCTION.

The discussion on the vote of £29,384 13s. 4d. for education (making the total vote for the year £176,093 6s. 8d.) and on Mr. Higinbotham's amendment thereto, providing that no part of the grant should be applied in aid of schools not vested in the Board of Education unless established before June 30, 1869 (adjourned from November 18), was resumed.

Mr. DULFHY called attention to the fact that, before the adjournment, there was brought under the Chairman's notice by the honorable and learned member for St. Kilda (Mr. Fellows) a point of order—that the amendment was intended to, and would in point of fact, supersede a provision in an Act of Parliament, and that it was not proper for a provision of an Act of Parliament to be altered by a resolution passed in Committee of Supply. He knew he might be told that the resolution, if passed, would be included in the Appropriation Bill, and that it would thus have the force of an Act of Parliament. But he contended that it was neither reasonable nor just that a committee of the House, by a resolution inserted in a Bill which could not be altered in the other House, should deliberately alter a direction contained in an Act of Parliament. The Common Schools Act gave the Board of Education created under that Act the power of making regulations for the disposal of money voted by this House for educational purposes. But if the amendment were carried, the House would take from the board what was given to them by law, and would determine for itself the method of disposing of this money. He did not wish to urge the point at any length; but he thought the committee were entitled to the ruling of the chair on the point whether the amendment of the honorable and learned member for Brighton was reasonable or permissible under the circumstances.

Mr. WRIXON observed that there appeared to be some grave objections to the amendment; but he thought the business of the committee was a great deal lightened by the admission of the honorable and learned member for Brighton, that he had no desire, by the amendment, to alter the law. His own conclusion was that the amendment would alter the law. The regulations made under the Common Schools Act provided that the Board of Education "will entertain applications for aid to new schools not proposed to be vested in the Board of Education." That was the law at present, but, if this amendment passed, it would be law no longer; the board would no longer be able to "entertain applications for aid to new schools, not proposed to be vested in the board." It had been stated, in the course of the discussion, that the House was not bound to vote any money whatever for the purposes contemplated by the Common Schools Act. But the distinction between the two positions was perfectly plain. If no money was voted for the purposes of education, the Act would remain a dead-letter, and neither vested schools nor non-vested schools would be assisted. That, however, was a different thing from attaching to the vote for education a condition opposed to that which by law now attached to it. The latter proceeding was clearly an alteration of the law. Another objection to the amendment was that it seemed an indirect way of determining the whole question. He hoped that the honorable and learned member for Brighton would, on a future occasion, take charge of some measure dealing with the subject of public instruction; but he should regret the House, at the end of a session when the general question was not under consideration, being pledged in reference to one isolated feature of that question. He admitted that the question of public education was one which Parliament ought to endeavour to settle as soon as possible; but the fact could not be concealed that the subject was one on which great differences of opinion existed, The honorable and learned member for Brighton, when a member of one of the strongest Governments ever known in this country, brought forward a very excellent measure dealing with the question, and it then seemed that public opinion on the subject was not formed. Again the resolutions on the subject, moved during the present session, by the honorable and learned member for St. Kilda (Mr. Fellows), and the counter resolutions proposed by the honorable and learned member for Brighton, had not been decided one way or the other. The matter being thus left undetermined, was
Mr. HIGINBOTHAM remarked that every honorable member who had not made up his mind that secular education ought to and must prevail in the colony, would vote against the addition to the vote, because the avowed purpose of that addition was to prevent the further growth of denominational schools. He believed the honorable and learned member for Belfast hardly appreciated the difficulties and obstructions which would be raised to any attempt that might be made by Parliament to obtain a settlement of this question. He (Mr. Higinbotham) felt entirely justified in endeavouring by every legitimate means to stop, at the earliest possible moment, any increase to the means of opposition and obstruction to the settlement of the question. That was the object of the amendment. But the question immediately under the attention of the committee was one rather of order, or something in the nature of order, raised by the honorable and learned member for St. Kilda (Mr. Fellows), who asked that the Chairman should rule whether it was in order to submit this addition to the vote. Now perhaps that question might as well once be decided. If the Chairman's opinion should be unfavorable as to the propriety or expediency, in accordance with parliamentary rule, of making this addition, he knew what course to take; he would propose that the Chairman report progress, in order that the Government might bring down a schedule of the proposed expenditure of the board, which regulations had the force of law—he could only say that he was totally unaware of any principle of interpretation by which such a conclusion could be arrived at.

The CHAIRMAN ruled that the Common Schools Act contemplated aid being given by the Board of Education both to vested and non-vested schools, and that the condition proposed to be attached to the vote was not in order, because it would limit the power of the board under that Act.

Mr. HIGINBOTHAM said that, however much he might differ from it, he would cheerfully bow to the Chairman's decision so far as it related to the particular question before the committee, and endeavour to attain his object by different means. He moved that the Chairman report progress, with a view to the consideration of the vote being postponed until the Government obtained detailed estimates from the Board of Education, showing, amongst other things, the proposed expenditure of the board, for the year 1869, for new vested and new non-vested schools. When those estimates were brought down by the Government, he should be much surprised if any member said that the Legislative Assembly had no power to refuse to grant any sums of money asked for.

Mr. MACPHERSON exceedingly regretted that the honorable and learned member for Brighton had moved that progress be reported, in order that the Government might bring down a schedule of the proposed distribution of the grant for educational purposes. As legislation on the subject of education would be required early next session, it was hardly right that there should be any delay in disposing of the public business, at this late period of the year, for the purpose contemplated by the honorable and learned member. Individually, he cordially agreed with the principles advocated by the honorable and learned member in reference to education, although he would not have felt himself at liberty to vote for the proposition which had just been ruled out of order by the Chairman. He admitted that it would tend to carry out the principles advocated by the honorable and learned member, but he believed it would tend to carry them out in a most undesirable way, inasmuch as it would affirm a question of policy in an Appropriation Act, which he did not consider desirable under any
circumstances. He thought that the honorable and learned member altogether over-estimated the difficulties in the way of the settlement of the education question. He believed that, if the honorable and learned member had persevered with the Bill which he introduced last session, the House would have struck out all the clauses relating to religious instruction, and probably the measure would have been law before now. The Bill was withdrawn under a false impression as to the difficulties surrounding it. He hoped that the honorable and learned member would not consider it necessary to press the amendment. As far as he (Mr. Macpherson) was individually concerned, he would, whatever position in the House he might occupy, lend his assistance to the initiation of a system of purely secular education at the earliest possible moment.

Mr. FELLOWS submitted that, if the object of reporting progress was to alter an Act of Parliament in a circuitous manner, because it could not be interfered with in a direct way, the sooner that object was stated the better. No one in his senses would venture to say that the Legislative Assembly had not power to vote money or to refuse to vote money; but it was altogether another question whether the House had a right to eel any vote with a condition which violated an Act of Parliament. To say that a matter of which the Assembly had not the exclusive cognizance should be discussed in that House, and nowhere else, was an idle effort and a waste of time. He did not see what was to be gained by obtaining from the Board of Education an estimate of their proposed expenditure. If it was to ascertain how much they proposed to expend in vested and how much in non-vested schools, and to lop off the amount which they proposed to give to non-vested schools, he did not know how that object could be accomplished. If anything was struck off the estimates of the board, he apprehended that the board — unless they altogether disregarded their regulations, which had the force of law — would make a proportionate reduction in all their grants, and distribute the vote on the same principle that they intended to adopt in the first instance.

Mr. HIGINBOTHAM observed that his purpose, in moving that progress be reported, was to obtain detailed estimates, showing the amount proposed to be expended by the board on new vested and new non-vested schools during 1869, with the view of asking the committee to consider whether it would be disposed to grant any sum, and, if so, what sum, to new non-vested schools. He could not state the object which he had in view in more distinct terms. He was totally unaware of any principle upon which the committee could be asked to grant any sums of money, and, at the same time, told that it had no right to refuse them. He would, however, test the question when the time arrived.

Mr. FELLOWS understood that the object of the honorable and learned member for Brighton was to do what the Chairman had already ruled could not be done.

Mr. HIGINBOTHAM explained that, though he had accepted the Chairman's decision, he only accepted it as against the addition to the vote of the condition which he had proposed should be annexed to it. If the decision was regarded as virtually denying the right of the House to ask for detailed estimates, or, after it had got them, to deal with them as it thought fit, he was prepared not merely to dispute the Chairman's ruling but that of the Speaker, and to ask the House to decide for itself whether it had that power.

Mr. DUFFY asked the Chairman whether the present proposal of the honorable and learned member for Brighton was not just as much a violation of the law as the one which had already been ruled out of order? It was another method of attaining the same end. If an Act of Parliament gave to certain commissioners the power of distributing the vote for education, and if the Committee of Supply was asked to take the power out of the hands of the commissioners in the way now suggested by the honorable and learned member, was not that contrary to parliamentary usage, on the same principle that the condition which it was proposed to attach to the vote had already been decided to be contrary to parliamentary usage? He trusted honorable members would not forget that Parliament had been in session ten months—it was now the 24th day of the 11th month of the year—and that a new session would commence and new estimates would be under consideration in a couple of months. Even if it were proper to supersede an Act of Parliament in the way proposed, surely it would be more reasonable to deal with the whole
question next session, either by Bill or in some other legitimate way.

Mr. McCULLOCH supported the motion for reporting progress, and suggested that the detailed estimates might be obtained by the following evening. The only question at present before the committee was as to reporting progress. (Mr. Fellows—"With what object?") That question was not now before the committee.

Mr. J. T. SMITH contended that the committee were bound to consider the object aimed at by the motion to report progress. The honorable and learned member for Brighton, finding that he could not tack a resolution to the vote, was now endeavouring to subvert the law by some other means. He (Mr. J. T. Smith) hoped that the committee would show their respect and reverence for the law, and not attempt to alter it without the assent of both Houses of Parliament.

Mr. LANGTON urged that all honorable members who did not desire to interfere with the distribution of the vote by the Board of Education should vote against reporting progress. In consenting to the Common Schools Act, the Legislative Assembly parted with its power of distributing the grant for education, and vested that power in a certain board. The House was now asked to reverse that decision, and to assume to itself a power which it had deliberately parted with. It would be well to deal with that issue at once. Those honorable members who believed that the Common Schools Act could not be repealed without the consent of both Houses of Parliament ought to vote against the motion for reporting progress.

Mr. KERFERD did not think that, at the present stage, it was necessary that the committee should take cognizance of the ulterior object which the honorable and learned member for Brighton had in view. The honorable and learned member had moved that progress should be reported, in order that certain information should be supplied before the committee passed the vote for education. The committee had at all times a right to be furnished with detailed information before it voted public money, and he therefore saw no reason why progress should not be reported. It would be time enough for the committee to discuss the issue which the honorable and learned member for Brighton desired to raise when it was distinctly before them.

Mr. WHITEMAN said that it was the duty of the House to vote a lump sum for educational purposes, and leave its distribution to the Board of Education, who were bound to distribute it according to law. No detailed information was necessary. The object of the honorable and learned member for Brighton was to deprive the Board of Education of the power conferred upon it by Act of Parliament. Looking at the matter in a common sense point of view, it was absurd for one House to attempt to deprive the board of the power conferred upon it by Act of Parliament.

Dr. MACARTNEY intimated that he was opposed to the object which the honorable and learned member for Brighton had in view, but he did not think the committee ought to refuse to report progress. The honorable and learned member was entitled to the information for which he asked.

Mr. DUFFY could not conceive the slightest justification for any member voting for the motion to report progress, unless he agreed with the object aimed at by the honorable and learned member for Brighton.

Mr. MACKAY considered that an honorable member had a right to ask for details of any expenditure which the committee was invited to sanction.

Mr. WHITEMAN submitted that, whatever sum was voted for education, the board had a right to decide how it should be distributed.

Mr. JONES remarked that, if a board could set at nought a resolution of the House, it would only be necessary to appoint two or three boards, in order to dispense with the House altogether. As long as the House had the disposal of the public moneys, it ought to be able to say what money it would vote, and for what purpose.

Mr. MACKAY said he would give an illustration of the folly of maintaining that the House had no right to interfere with the details of the expenditure of the Board of Education. A short time ago it was ascertained that, in a common school in Gippsland, there were classes for the children of certain select people, proceeding directly in contravention of the Common Schools Act, and against the spirit of the regulations framed by the board. If the board had not rectified that abuse, it would have been the bounden duty of the House to have asked for a
detailed estimate of the expenditure, in order that it might knock off the amount proposed to be given to that school.

In reply to Mr. MacPherson,

Mr. Higinbotham repeated that his object in moving that progress be reported was to enable the Government to obtain from the Board of Education detailed estimates of their proposed expenditure for 1869, with a view to ask the committee, when it was in possession of those estimates, to deal with each and every one of them as it thought fit.

Mr. Fellows observed that the plain object of the motion was to overrule the decision which had just been given by the Chairman—to do, in a circuitous and indirect manner, that which could not be done directly.

Mr. Wrixon, though he did not concur with the object which the honorable and learned member for Brighton had in view, did not see how the committee could refuse the information asked for before it voted public money.

The committee divided on the question that the Chairman report progress—

Ayes ... ... ... 33
Noes ... ... ... 21

Majority for reporting ... 12

Warrnambool Court-House.

Mr. Plummer moved—

"That this House will, to-morrow, resolve itself into a committee of the whole to consider the propriety of presenting an address to His Excellency the Governor, praying that he will place a sum of £2,500 upon an Additional Estimate for 1869, for the purpose of building the court-house at Warrnambool, ordered to be erected by the late Minister of Justice."

Mr. Kerferd seconded the motion.

Mr. McDonnell said he should be most happy to entertain the question, but at present there were no funds for the purpose at his disposal.

Mr. Plummer expressed the hope that the Government would deal with the matter in the Estimates for next year.

The motion was then withdrawn.

Newspaper Postage.

Mr. Jones moved—

"That, in the opinion of this House, it is expedient to diminish very considerably the postal rate now charged on newspapers, with a view towards the eventual abolition of postage on newspapers published within this colony."

Mr. MacPherson said this question would receive consideration at the hands of the Government when the proposed alterations in the Telegraph department were dealt with.

The motion was withdrawn.

A. S. Dewar.

Mr. MacPherson moved—

"That the petition of Alexander Stewart Dewar, presented to this House on the 10th inst., be referred to the Commissioner of Customs for consideration."

The honorable member stated that Mr. Dowar had been in the Government service sixteen years, but in August last was compelled, by physical inability, to resign his situation. He had received no compensation, although, had he remained in the service two years longer, he would have been sixty years of age, and entitled to a pension.

Mr. McKenna seconded the motion.

Mr. Cohen regretted that it was proposed to refer the matter to him, as he could do nothing in view of the reports relating to the case in the Customs department.

The motion was agreed to.

Board of Agriculture.

Mr. McCaw moved—

"That whereas, in the opinion of this House, the Board of Agriculture is of no practical use in the promotion of agriculture in this colony, it is expedient that it should be abolished."
It was acknowledged on all hands (said Mr. McCaw), even by the majority of members of the Board of Agriculture themselves, that that board was entirely useless to the country. The annual grant had been continued for the last few years, simply because the Estimates had been brought on late in the year, before which time promises of pecuniary aid had been made to the various local agricultural societies, on the strength of which promises those local societies incurred liabilities. On a previous occasion he stated that the board incurred an expense of £1,500 in distributing £4,500. In making that statement he failed to take into account the fact that, of the funds at the disposal of the board, £1,000 was given every year for what was called a national show. The appropriation of that money was attended by but little advantage, because it was never decided where the show should be held until within a month of the time of holding it, and therefore the grant did not secure an additional exhibit. The only other duty of the board was to divide the State grant among twenty-six or twenty-seven agricultural societies, and the cost of doing this was something like £300 per annum.

Mr. LOBB seconded the motion.

Mr. MACGREGOR concurred in the motion; but, at the same time, reminded the House that an Act of Parliament stood in the way of the abolition of the Board of Agriculture. True, by the House discontinuing the grant, the Act might become practically inoperative; still the board would remain in existence until the Act under which it was constituted was repealed. Under these circumstances he would suggest to the honorable member for East Bourke (Mr. McCaw) the propriety of amending the motion, by substituting, for the words "it is expedient that it should be abolished," the words "it is expedient that no money shall be voted after the end of the present year." The Act provided that any money voted by the Legislature for the encouragement of agriculture should be distributed in a certain way by the Board of Agriculture, but there was nothing in the Act to compel the House to vote money; and, if the House did not vote money, there would be no money for the board to distribute.

Mr. McCAW accepted the amendment, explaining that his desire was to prevent the incurring of any expenses on account of next year.

Mr. McLELLAN thought that, if the desire of the House was to abolish the Board of Agriculture, timely notice should be given, in order that the board might be able to meet all its liabilities. He believed the honorable member for East Bourke (Mr. McCaw) was wrong in stating that the board had done nothing in the way of promoting agriculture. Probably that was the case when the honorable member sat at the board, but a different state of things had since arisen. He believed that a large number of the gentlemen now composing the board were well acquainted with the requirements of the country in an agricultural point of view, and would be able, in consequence, to make the board far more useful to the country than it had been hitherto. One of the most recent projects of the board was to establish a nursery of British and other trees calculated to be advantageous to the colony, with a view to their distribution among settlers. He thought that, in a country like this, where there was such a scarcity of useful timber, a work of that kind should be encouraged. If suitable wood were grown in the colony, agricultural and other implements now imported from America and elsewhere could be manufactured here.

Mr. McKEAN suggested that the objection held by many honorable members would be met by an addition to the vote of a condition that it should be distributed by a clerk in the Treasury department. It appeared that the Board of Agriculture had not the confidence of the agricultural societies; nevertheless it was kept up at a cost of about £1,000 per year. This expense would be saved by adopting his suggestion; because he believed that a week's labour, spread over a year, would be all that was necessary to distribute the money granted by the State in aid of agriculture. The board had had repeated notice that its services would be dispensed with; and he considered it would be wrong to continue it in existence as at present constituted.

Mr. G. PATON SMITH expressed his surprise at the suggestion of the Minister of Lands. He thought the honorable member was recently somewhat enamoured of boards—that he desired to substitute the action of boards for the action of Government officials. But surely the experience of the honorable member in connexion with local boards must be anything but satisfactory, or he
would not have come before the House with a suggestion that a board formed under the authority of an Act of Parliament, and elected by constituents in all parts of the colony, should be superseded by a Treasury clerk. He (Mr. G. Paton Smith) trusted that the motion, amended as suggested by the honorable member for Rodney, would be agreed to, in order that, if the Board of Agriculture remained, it would remain inoperative. He did not understand the plea put forward that the board was incurring liabilities prospectively. Why no board—no body of men—had any right to anticipate the votes of the House.

Mr. KERFERD observed that there was another objection to the suggestion of the Minister of Lands, which he was sure that honorable gentleman would readily accept. The tack proposed by the honorable and learned member for Brighton with reference to the education vote having been objected to, he did not see how conditions could be attached to a vote of a similar character. Honorable members would recollect that a Bill to repeal the Act creating the Board of Agriculture was submitted to Parliament a few sessions ago. It was proposed by that Bill to form a new board, and generally to amend the law relating to the encouragement by the State of agricultural societies. The measure was a remarkable one. In its passage through the Assembly it was shorn until only one clause—that repealing the existing law—remained; and, when the Bill went to another place, it was lost. Ever since he had been a member of the House, the advisability of abolishing the Board of Agriculture had been discussed; and he thought the better course now to pursue was to pass a resolution declaring the expediency of introducing a Bill to alter or repeal the existing law. If that course were adopted, and if the Government would undertake to bring in a Bill dealing with the subject, next session, there would be sufficient notice to the agricultural societies throughout the colony not to incur any further liability. His own opinion was that it was prudent on the part of the State to grant aid to societies of the kind. In his own district a farmer had commenced growing the material used in the manufacture of the American broom—an article of industry which might profitably be acclimatised in this country—and other additions to the agricultural products of the country might be made if private enterprise were encouraged by a little assistance from the general revenue. But this could not be rendered while the law remained as it stood, and while money was distributed as the agricultural vote had been distributed by the Board of Agriculture for many years past.

Mr. HIGINBOTHAM hoped that the honorable member for East Bourke (Mr. McCaw) would see his way to accept the suggestion made on behalf of the Government by the Minister of Lands. That suggestion appeared to be a very valuable one, because it showed that the Government had very quickly and properly become converted to a principle which, earlier in the evening, they seemed inclined to oppose. By the Board of Agriculture Act, the board were empowered not merely to entertain applications from agricultural societies for grants of money made by Parliament, but also to determine the very principle on which those grants should be distributed. The Minister of Lands now suggested that there should be attached to the grant on the Estimates a condition by which a Treasury clerk should be empowered to determine the distribution of the grant. He was grateful to the Government for their speedy conversion to a principle which went somewhat beyond what he was prepared to contend for, but which he thought thoroughly sound—namely, that so long as money was to be granted, under or without an Act, for any public purpose, the Legislative Assembly had the entire right and control of the distribution and direction of that grant.

Mr. LANGTON called attention to the difference between the two cases referred to by the honorable and learned member for Brighton. By the Common Schools Act, the regulations of the Board of Education had the force of law, and it was not within the power of either House of Parliament to abrogate them. But there was a special proviso to the last section of the Act establishing the Board of Agriculture, which said that the by-laws under which the sums of money voted by the House in aid of agriculture were distributed might be revoked by the Governor in Council or by either House of Parliament.

Mr. RIDDLELL considered that no profit would accrue from the transfer of the duty of distributing the agricultural vote from the Board of Agriculture to a Treasury clerk. The cost of the staff of
the board did not exceed £600 per year, and, considering the returns which had to be furnished and investigated in reference to the country societies, and the other matters which had to be attended to, there would be no pecuniary gain by adopting the suggestion of the Minister of Lands. He was not there to defend the Board of Agriculture, but he might mention that the board were fully awake to the necessity for remodelling their constitution.

Mr. LONGMORE thought that, after the expression of opinion on the part of the House on previous occasions in reference to the abolition of the Board of Agriculture, the Government would have little difficulty in determining the proper course to pursue. The board had never proved itself worth the money expended upon it. If it was desirable that £1,000 should be voted for an annual show, this could be done without the assistance or intervention of any board. If the board had incurred any liabilities beyond the amount of the vote for the current year, no doubt the House would see that those liabilities were discharged. The honorable and learned member for South Bourke had stated that the board had no right to anticipate the votes of the House. But he should like to know how the Government of the country would be carried on if the votes of the House were not anticipated. The thing was being constantly done by local bodies.

Mr. WRIXON said he did not feel any lively interest in the Board of Agriculture, and he believed the majority of the House had no objection to the termination of its existence in a reasonable time; but he thought that execution on the board should not be done other than in a constitutional way. He considered that there could be no objection to passing a general resolution declaring the expediency of abolishing the board, or to the House declining to vote any more money for the purposes of the Board of Agriculture Act; but he trusted that the House would not adopt the suggestion of the Minister of Lands, because that would be clearly to repeal the Act indirectly. The Act said that the Board of Agriculture was to frame by-laws for the distribution of the money voted by Parliament. True those by-laws might be repealed by either House of Parliament—they could be got rid of in an easier manner than the regulations of the Board of Education—but, until they were got rid of, the agricultural vote could not be distributed by a Treasury clerk without a breach of the law. He submitted that, if the board was to be extinguished, it should be done in a legitimate manner, by Bill, next year.

Mr. WHITEMAN remarked that he was in no way enamoured of the Board of Agriculture. He believed that it had failed to accomplish the end for which it was established; and that, the sooner it died, the better would it be for the agricultural interest, and the interests of the colony generally. At the same time he thought the abolition of the board should be brought about in due order and with proper notice.

Mr. McCAW observed that he did not see what liabilities the Board of Agriculture could have incurred, seeing that all they had done, for the last seven years, was to divide the money annually voted by Parliament. One reason why his motion should be adopted was that the lease of the model farm would expire in April next.

Mr. F. L. SMYTH said it appeared from the discussion that the Board of Agriculture had few, if any, friends in the House. Now at the last meeting of that board he attended as the representative of the Avon Agricultural Society, and from what then transpired he could not help coming to the conclusion that the board far from deserved the universal reproach which had been pronounced upon it. It seemed to him that, although the board might not have done all that was expected, it had proved a great help to the various agricultural societies—each of which, in its own sphere, was doing a large amount of good—and that it was stimulating agriculture throughout the colony; and he could account for the outcry of condemnation which had been made only by the fact that a large number of the members of the board took no interest whatever in agriculture. He was opposed to the motion.

Dr. MACARTNEY remarked that the motion, if carried as amended, would be an intimation to the Government of the desire of the House with respect to the Board of Agriculture, and would prevent the appearance on the Estimates for next year of a vote to be distributed by that body. He believed that agricultural enterprise would in no way suffer by the aid which the State might choose to grant being distributed by the Government,
instead of by a board which the House desired to see abolished.

The motion, amended as suggested by Mr. Macgregor, was then agreed to.

THE IMPERIAL GOVERNMENT AND THE COLONIES.

FIFTH NIGHT'S DEBATE.

The debate on Mr. Higinbotham's resolutions (see p. 2123) on the subject of the relations between the Imperial Government and the colonies (adjourned from November 16) was resumed.

Captain MAC MAHON.—Mr. Speaker, having moved the adjournment of the debate, I suppose it devolves upon me to continue it, but I think it must be apparent to honorable members that, such a length of time having elapsed since the subject was first brought under the notice of the House, the interest in the discussion has to a great extent subsided; and, inasmuch as I understood that the honorable and learned member for Brighton is willing to accede to the wishes of others members, and allow the matter to be discussed in such a manner that amendments may be made in the resolutions, I cannot see the object of continuing the debate now. I believe that the honorable and learned member for Brighton is prepared, in the event of my honorable colleague consenting not to press his amendment, to allow the resolutions to be referred to a committee of the whole House, in order that such alterations may be made in them as the majority of honorable members may think fit. It must be apparent that resolutions on such an important question as the relations subsisting between the Imperial Government and the colony should proceed either from the House itself, from a committee of the House, or from the Government. Any expression of opinion which is given should be not merely the opinion of an honorable member who may possess more or less influence, nor the opinion of any particular party, but the deliberative opinion of the Legislative Assembly; and, if possible, it should represent the feeling of both branches of the Legislature, and of the whole country. I trust the honorable and learned member for Brighton will agree with me that, if we wish to carry any weight at home, it is desirable that any expression of opinion which we may arrive at should be unanimous—that all sides of the House should agree to it, and that, if possible, it should not conflict with the opinions of the members of the other branch of the Legislature. In passing any resolutions on this subject we ought to endeavour to bring the matter before the Home Government in such a way as to express the deliberative opinion of the whole colony.

Mr. HIGINBOTHAM.—Sir, I desire to place myself entirely in the hands of the House; and I recognise at once the fairness of the wish which has been expressed by several honorable members, that the House should be afforded an opportunity of considering in detail the resolutions which have been proposed, and of making such amendments in them as may commend themselves to the approval of the House. I hope that the House will not consent to refer this question to a select committee. In the first place, the terms of the amendment of the honorable member for West Melbourne (Mr. Langton) are such that a select committee would have no more power to deal with the two subjects that lie outside these resolutions than the House itself possesses. The terms of the amendment are that "the subject of the relations of this colony with the Imperial Government" shall be referred to a select committee. Now, according to those terms, both the question of the relation of the colonies between themselves, and also the question of the international relations of all the colonies with foreign countries, in the case of a war with England, would be excluded from the consideration of a select committee; and, so far as relates to the question of the connexion between this colony and the mother country, I venture to believe that it is highly expedient that the opinion of the House should be taken in public, and that the opinion of honorable members should be expressed publicly upon all parts of the question. I therefore hope that the honorable member will not press his amendment, and, if he will not, I am perfectly satisfied that the question should be left to the House. Perhaps, however, the House will permit me to say that I am not prepared, from anything I have heard in the course of the debate, to abandon the terms of two of the resolutions, at all events, and which, I will take the liberty to say, I have not submitted from any desire to usurp the functions of the Government, but because I understood the Chief Secretary to say it was desirable that the question should be brought before the House, and because I did not understand the honorable gentleman to
say that it was the intention of the Government to bring it forward. Sir, there are two of these resolutions which appear to be proper to be taken in connexion with one another, which seem to me to embody the true principles that we ought to accept and to assert, and which, as far as I have heard the opinions of honorable members, are still unassailed by any valid argument. I regret to say, however, that although they do not appear to me to have been attacked by arguments that can be supported in debate, still there is not unanimity of opinion in the House upon those two questions. I refer to the second and the fourth resolutions. The second resolution asks the House to affirm that it is the duty of the people of this colony to accept the task of defending our own shores from foreign invasion, at our own cost, and by means retained under our own control. There is not unanimity upon that subject; and although I desire, with the honorable and gallant member for West Melbourne, that the House should arrive at a determination which should be unanimous, and which should express not only the opinion of all the members of this House, but, if possible, the opinion of every grown-up man in this country, still, if there be a deliberate difference of opinion on this subject, it is very desirable that that difference should be worked out, and that we should clearly ascertain upon what grounds we support these resolutions, or upon what grounds we oppose them. The honorable and learned member for Dalhousie has stated his objection to the second resolution. He has stated broadly that he believes it to be a monstrous proposition that this country should take upon itself the task of defending itself in the case of a war between Great Britain and a foreign country, in which war, as the honorable and learned member has observed, the people of this country would have no voice whatever. Now that puts the opposition view in a very distinct light, and I am perfectly prepared to accept a discussion and a division upon that particular question. I venture to affirm not only that it is not a monstrous proposition, but that it is a proposition which we ought gladly and cheerfully to accept. It must be remembered that, for a very long time —long beyond the time of this generation, at all events—Great Britain will only engage in war for the purpose of defence and not for the purpose of aggression; and it seems to me that, if we remain in connexion with the mother country, it is not only not a monstrous proposition, but a most reasonable proposition, that, in the time of England's difficulties, we should be prepared, not indeed to assist her in acts of aggression, which she is certain not to commit. —

Mr. DUFFY.—How certain?

Mr. HIGINBOTHAM.—I say that, if any prediction may be made with certainty about a future event, it is most certain that England will not engage in aggressive war during the period of the next generation.

Mr. DUFFY.—All her wars have been aggressive for a century.

Mr. HIGINBOTHAM.—That raises another question. I state my own belief that the policy of England, encompassed as she is with enormous debts, is so controlled by the influences—the social influences—arising from her great indebtedness, that it is most certain she will not engage lightly or rashly in any aggressive war during the next generation. Now if England, in a defensive war, is compelled to resort to hostilities with a foreign country, I ask is it not reasonable that those colonies which remain in connexion with her, which share her protection in time of peace, and which enjoy all the advantages which they believe they derive from connexion with her, should undertake their own defence in the time of her difficulty? It seems to me that is a most reasonable proposition, and, not only is it a reasonable one, but it is a condition which will be forced on these colonies whether they will or not. If I might venture on another prediction it would be this—that the English taxpayers will not continue to endure the idea that they are to pay heavy taxes for the support of fleets and armies to be employed in defence of England's colonies in the time of war, when those colonies are able to protect themselves. Not only is this likely to be the case, but for my own part I do not hesitate to say that, if I were now living in England, I should earnestly deprecate the continuance of that national expense for that national purpose—I should join with all those who are at present raising an agitation in England for the reduction of her army and fleet, and, as one of England's taxpayers, I should call upon the colonies, if they were able to defend themselves, to assume, if they could, the spirit and manliness of accepting that duty. It must be
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remembered that the English Government now puts the proposition contained in the second resolution in connexion with the proposition embodied in the fourth resolution, which affirms the conditions on which we should accept the duty of self-defence. The English Government, through several of its members, has stated that England's colonies are asked to accept the obligation of self-defence—on what ground? On the ground that they have responsible government established by law. That is simply the short ground upon which members of the English Government have appealed to the colonies to undertake their own defence. If the English Government asks us to defend ourselves because we have responsible government by law, I think it is not unreasonable to say—"We will defend ourselves, but that responsible government which you say we possess by law must be responsible government in reality, and not merely in name." Now that is the only purpose of the fourth resolution—to declare that responsible government exists by law, and therefore it should exist in fact. The honorable and learned member for Dalhousie has also taken exception to the fourth resolution, one of his grounds—the least important—being that the resolution expressly excepts the case of the reservation of Bills for the Royal assent. I entirely agree with the honorable and learned member, that that is a limitation of responsible government which ought not to continue to exist; it is one of which we have great reason to complain, which has been imposed upon us by the English Government and Parliament, and which has not been accepted at our own instance. But this fourth resolution aims merely at stating what is the existing law. However much we may be opposed to this restriction on our legislation, no one, I apprehend, can dispute that it is a restriction which exists by law, and which, therefore, in stating a legal proposition by a resolution, we cannot affect to overlook or disregard. With very much more pain I heard the honorable and learned member take another exception to the fourth resolution, and his objection seemed to me to strike at the very root of the proposition contained in the resolution, and, in fact, to assert that responsible government does not exist by law in this country. I understood the objection of the honorable and learned member really to go to that extent, although it was not so expressed in terms. I will tell him why I believe so. The honorable gentleman spoke of the right of the Colonial Minister in England to interfere with the domestic government of this colony.

Mr. DUFFY.—No.

Mr. HIGINBOTHAM.—I took down the honorable and learned member's words at the time, but I cannot refer to them now. I am glad to hear that I misunderstood him. But I certainly did not misapprehend the honorable gentleman when he said that he understood the Governor of this country to exercise the functions of the Queen in regard to this country; that Her Majesty, if she were here, would of course supersede him in the exercise of those functions; that as Her Majesty was unable to exercise her own powers without advice, she was constrained to resort to the advice of persons with whom she was in communication at home; and that, for this reason, the interference of her responsible advisers at home was justifiable. I think I certainly have not misunderstood the honorable gentleman when I say that these were his observations. Well, I venture to submit to the House that, if this view be correct, it is simply a question of the discretion or indiscretion of those responsible advisers of Her Majesty at home as to how far they will interfere or not in the affairs of this country. I do not see my way out of that conclusion, and, if that be so, I confess I do not see the distinction in law between the system which the honorable and learned member supposes to exist at present in these colonies, and the system which existed before responsible government was introduced. If it depends upon the discretion or indiscretion of an English Minister how far he will advise Her Majesty to interfere by instructions in the government of a country which has been established by Act of Parliament, and which now exists by the force of law, where is it to end? As the Duke of Argyle has suggested, the most minute details of the Governor's duties may be dictated by Her Majesty's advisers at home. How far can that right of interference be carried without trespassing beyond the law? Have we any law in this colony—I mean, does there exist any point at which the people of this country shall be entitled to say (through the advisers of the Crown, responsible to the Parliament of this country) the English Minister has no right by law to do this thing? Is there any point at which we can say that he shall not interfere? If there be, I very clearly see what that point
is. It is a point limited by the power of the Colonial Minister to instruct the Governor as to the reservation of Bills, and it does not go beyond that. If the point does not exist, and it merely rests in the discretion or indiscretion, as the case may be, of the Colonial Minister to say in what matters he will interfere and in what matters he will abstain from interfering, then I confess, with great pain, that I do not believe we have got responsible government at all, and that we must cast ourselves upon the mercy or the indulgence of the English Government to determine for us how far we shall be permitted to exercise the right of self-government, and how far we shall be subject to the tutelage and control of the Colonial-office. Now some honorable members have lent a certain kind of support to these observations of the honorable and learned member for Dalhousie, by saying that, at present, there is no immediate cause of quarrel with the English Colonial-office. They have pointed out, and the fact is perfectly true --- I readily admit it --- that the present head of the Colonial-office is a very urbane and courteous gentleman, and that he addresses all his despatches in terms which are perfectly free from exception, so far as their tone and manner are concerned. But it seems to me that that is a very unfortunate way in which to represent the merits of this case. Are we to depend for our rights in this country --- our legal rights --- upon the character of the gentleman who happens to preside over the Colonial-office? Certainly if we have got rights by law we need not depend upon --- we may be perfectly indifferent to --- the character of the Secretary of State for the Colonies; but if, on the other hand, we are dependent entirely upon him, no doubt it assumes an aspect of very great importance what may be the disposition, and even what may be the manners, of the gentleman who happens to fill the position of Colonial Minister. I will also remind the House of the fact that, although the despatches of Earl Granville are always couched in polite and unexceptionable terms, Earl Granville himself appears to act upon the views which have been deliberately accepted by the Colonial-office, and to interfere in matters in which I venture to assert, if we have responsible government at all in this country, he has no right whatever to interfere. Sir, I received to-day a paper forwarded to me (I know not by whom) from New South Wales, containing some remarkable despatches which have recently passed between the Governor of that colony and the Colonial Minister in England. I do not know whether honorable members have seen it. The first despatch is dated the 25th March, of the present year, and is addressed by Earl Belmore to Earl Granville. It describes a circumstance that occurred in the early part of the year in New South Wales, which may be shortly explained. It seems that the Legislative Assembly of that colony passed a Money Bill, which was sent up to the Legislative Council, and the Legislative Council inadvertently adjourned without passing it. Payments were required to be made, and the Governor was advised by his responsible advisers, or rather by the responsible advisers of the Crown --- not of the Governor --- to pay some money out of the Treasury for urgent claims. The Governor describes what he did to Earl Granville, and he says ---

"So much for technicalities. I now come to the ground upon which I justify my assenting to the advice of my responsible advisers."

I think this is a very remarkable expression. What does it mean? Is the representative of the Crown to justify, in a matter of this kind, his assent to the advice of his responsible advisers? I cannot understand this. The despatch proceeds ---

"Finding that I was constantly called on to authorize payments in anticipation of parliamentary sanction, to be afterwards covered by the amounts being provided for Supplementary Estimates, and feeling strong doubts as to the propriety of what had become a very ordinary practice, I requested your predecessor to favour me with instructions for my guidance. The points raised by me are recapitulated in the Duke of Buckingham's 'separate' despatch, dated 30th September, 1868, and his grace's opinion with regard to them is concisely given. Applying those instructions to the present case, which differs from the former in so far as this concerns Estimates-in-chief and one House of Parliament only --- those Supplementary Estimates and both Houses --- I consider the present (whoever may have been in fault) to be an 'unforeseen contingency' of an urgent nature, and the course which has been pursued to be 'justifiable' on the ground that it was presumably "sure to be subsequently sanctioned, joined to strong grounds of expediency, even though short of actual necessity.""

A copy of the despatch of the Duke of Buckingham and Chandos, in answer to the request of Earl Belmore for instructions for his guidance, is contained in the paper which I have received, and, like other despatches of the Duke of Buckingham, it

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is extremely obscure. In fact he tells the Governor to deal with each case on its own merits. What answer does Earl Belmore receive from Earl Granville? Earl Granville says—

"I cannot concur with your lordship in your construction of the Constitution Act, as stated in your second despatch. To require the Governor's warrant as a condition of the expenditure of public money would be merely nugatory, if the Governor were at liberty to issue that warrant for expenditure not justified by law. Having reference to the terms of the Duke of Buckingham's despatch of 30th September, I am not prepared to disapprove their course which you adopted in authorizing the payment of certain salaries in anticipation of an Appropriation Act; but, at the same time, I think that you have somewhat misunderstood the spirit of those instructions, and that the mere fact that a certain number of public officers would be put to a temporary inconvenience cannot be viewed as an unforeseen emergency, as it is a mere accident which must, in the nature of things, result from any delay in passing an Appropriation Act; nor is it such a case of expediency as justifies a violation of law. But independently of these considerations, the question is settled prospectively by the action of the Legislative Council; as I consider it clear that, except in case of absolute and immediate necessity (such, e.g., as the preservation of life), no expenditure of public money should be incurred without sanction of law, unless it may be presumed not only that both branches of the Legislature will hold the expenditure itself objectionable, but also that they will approve of that expenditure being made in anticipation of their consent. Your lordship will not, therefore, be at liberty, on any future occasion, to repeat the step which you have adopted in this case."

Is this lawful language to address to the representative of the Crown? I don't now put this in the light of an interference against which we have cause to remonstrate. I simply ask—Is this in accordance with the law of these colonies? If it is, I can only say that we have not responsible government in these colonies. If it is not, I want to know why we should shrink from enforcing the existing law, and from preventing, so far as we can, a repetition of these unlawful interferences? The Treasurer of New South Wales makes—a long minute, recapitulating all the circumstances of this case. He says, in very guarded language—

"It then becomes a grave question whether, by prohibitory instructions to the Governor of this kind, the free action of responsible government in this colony is not liable to be seriously impeded—whether our position and functions as responsible advisers of His Excellency"—

It should be of Her Majesty.

"and Ministers responsible to Parliament, are not interfered with by the Secretary of State so as to affect the principle of colonial independence. Lord Granville seems to have overlooked the fact that the action of the Executive Council, in cases like that referred to, is not that of the Governor alone, but the joint action of the Governor and his responsible advisers."

The honorable gentleman maintains this point most properly, in language far less strong than he would have been justified in using. It seems to me, therefore, that the time has now come—the occasion has not been seized upon by us, but has been forced upon our attention—for expressing an opinion as to whether this state of things shall any longer continue. If this interference be a practice sanctioned by law, I believe that we should address ourselves with a view to get our laws altered; but if, as the English government tell us, we have responsible government, I venture to say this is not in accordance with law at all, and therefore ought to be put a stop to. The Chief Secretary objected either to the matter or to the manner—I do not know which—of some of the observations I made when I brought this subject before the House. Will the honorable gentleman permit me to call his attention to the language used by the great representative of public opinion—not the most enlightened kind of public opinion, but still the great bulk of public opinion—in England, that is, the Times newspaper? How does it speak to our Parliament and our Ministers in view of the submission that we render to this interference on the part of the Colonial-office? The Times says—

"Nothing is more surprising to an Englishman who has realized the true position of the colonies, than to find how much below the real dignity of their position the leaders of colonial Ministries are apt to hold themselves. They lean towards England, although frequently applying harsh language to the Colonial-office, they still have a vague, undefined feeling of its power and authority. They are dwarfed in the presence of a shadow."

When the terms of union of the Canadian Dominion were under discussion, it was long debated whether the appeal to the Privy Council should be preserved, and it was last decided by the colonial delegates themselves that the Parliament of the dominion should create a general Court of Appeal for it. The nomination to the anomalous office of Governor is now the only point of subordination of Canada, and it is competent to every colony possessing self-government to seek the same formal degree of independence. Real independence is already the inheritance of every colony with a responsible government, but the fact is hidden from the eyes of men. Colonial men, the Times means, and colonial statesmen, accordingly, do not rise to the height of their calling. One of the immediate consequences of emancipation would be the emergence of the political life of the colonies from tutelage and dependence to the freedom of self-supporting authority."

MR. W. M. HIGGINBOTHAM'S RESOLUTIONS. [NOVEMBER 24.] FIFTH NIGHT'S DEBATE. 2347
Sir, I wish I could engrave that upon the minds of honorable members who sit on the Treasury bench, and that I could engage their hearty co-operation, first, in assenting to the existing principles of our law, and, secondly, in a determined resolution to enforce them; because, if this law exists—if responsible government exists—what does it mean? I take it that it plainly, in its simple, obvious sense, means that the head of the Executive Government occupies in this colony—except so far as he is checked and controlled by express terms of law—a position analogous in regard to this colony to that which the Queen of England occupies at home; that, by virtue of that position, the great maxim upon which the security and dignity of the English Sovereign rest apply to him, and that in his position as Governor, or rather representative of Her Majesty, he can do no wrong, simply because he does nothing as the representative of the Crown except what he is advised to do by those who are responsible to the people. Now what difficulty is there in enforcing and asserting that principle? What difficulty is there in claiming that, as the English Government say we have responsible government, responsible government shall exist in reality? What prevents us from demanding that, while the English Government may retain the right of appointing the Governor, we should have real responsible government? I care not who appoints the Governor. It matters very little who appoints the Governor, or the representative of the Crown, provided that, once he is appointed, he is free from interference. The only defence of an hereditary sovereignty that I have ever heard urged is that regularity and certainty of succession prevent accidents and the excitement of election and change; and if a representative of the Crown is appointed at stated intervals to be the Governor of the colony, I care not who appoints him, but I do say that, once he is appointed, if we are to have responsible government under his headship, he must be free (except so far as the law expressly declares to the contrary) from all interference, from all control, from all advice, from all correction, and still more from all censure. He must be subject in all his acts to the advice only of those who are responsible to the Parliament of Victoria; and it is not possible, I apprehend, that there can be any danger or disadvantage arising from the frank acceptance of that principle. Why we know that on the occurrence of every financial crisis in England the law of England is violated, and the Sovereign is advised to assent to the violation of the law, and does, upon the advice of her responsible Ministers and the Parliament of England, sanction that deliberate violation of the law. But what is the disadvantage of violating the law when the representatives of the people assent to and demand that violation? Who can complain of it? It is not a violation of the law; it is simply the suspension of the strict literal terms of a statutory enactment, authorized by those who made the enactment, and approved of by them. And if the Sovereign, or the representative of the Sovereign, is governed in all his acts by the advice of his Ministers, and those Ministers are under the control of Parliament, there is no danger—there can be no danger—in anything the Sovereign or her representative may do subject to these conditions. Certainly there is far less danger of his committing a mistake by following the advice of those who are responsible to the people than if he follows the advice, or accepts the suggestions, or obeys the instructions of persons who do not know our affairs, who live at a distance from us, who are utterly unacquainted with the requirements of our public concerns, and who are utterly incompetent, on account of their distance and on account of their ignorance, to advise us wisely.

Sir, I have ventured to trouble the House with these remarks, because I observe that there is a distinct difference of opinion on the subject of these two resolutions, and because I confess that I am not prepared, by anything I have heard, to accept a change in them. I have heard some honorable members assert, and others infer, that, in bringing forward these resolutions, I have been influenced by personal feeling. I should be very sorry if the House supposed that I would presume deliberately to introduce to its notice a subject of this vast importance under the influence of personal feelings; at the same time, I would not venture to assert that I am entirely free from those feelings. I dare say that honorable members who observe my conduct are far better judges, perhaps, than I am myself of the influences that may be operating upon me. I believe that very few men can judge so well of themselves in many respects as others can judge of them; but this I will say, that if I be influenced by those feelings, they confirm and strengthen the...
most deliberate judgment that I can form upon the subject of the rights, the interests, and the duties of this people, of which I, with every other member of the House, am a representative. I do not believe that it can be consistent either with the duty or with the self-respect of the people that we should consent to live under a system of Government which we all know is called by a name which it does not deserve—which we all know, so long as this systematic interference exists, is not responsible government—which we all feel to be a sham so long as this interference continues. And if I were, like many other honorable members, to desire the good opinion of our countrymen at home, I have no hesitation in saying that I believe the very best mode of attaining it would be for us to accept the suggestion contained in the article from which I have quoted, and to assert our independence of the control of the English Colonial-office; for all the people of England who take the trouble to think of us at all (there are not many who do; they are too much immersed in their own affairs, too much occupied with the pressing business and the anxieties resting upon themselves, to trouble themselves much with the interests and the affairs of this colony, but those who do lend a passing thought to our affairs) must despise us. Evidently the writer of this article does despise us for not claiming for ourselves the exercise of those rights which the law of England gives to us, and which we have enjoyed for many years in name, but which the people at home—those who think about us—say we do not enjoy in reality. In every point of view, therefore, I believe that now is the time for us to assert our rights, while at the same time we frankly accept our duties. I would merely now express the opinion that all honorable members who do not agree with these resolutions will give expression to their disagreement by voting against them. Much as I, with the honorable and gallant member for West Melbourne, desire unanimity on this subject, I do not desire a single vote from any member who does not heartily agree with the resolutions for which he votes. It would be far better that differences of opinion should be brought out, and made known, than that they should be concealed under a unanimous vote while they had not been removed by argument. If therefore the Government, or any members of the House, do not approve of these resolutions, let them vote against them. One thing I feel bound to say—that if the House passes these resolutions, or any of them, I shall certainly consider that it does not pass them merely in a sort of dumb-show, and to remain as an idle form upon our records. I shall certainly look to the Government—I care not what Government is in office—to give effect to them. I shall take care to bring this subject again and again under the consideration of the House if the House passes these resolutions; and, therefore, if there are any members who do not agree with them, I hope they will now frankly express their dissent, so that we may know who is in favour of the assertion of our rights under the existing law. Those who do not agree with the resolutions I would honour for giving frank expression to their opinions; but I hope that those who do agree with them will not only support the resolutions, in whatever form they may think fit, but that, having passed them, they will devote themselves earnestly to the task of giving effect to them as being the most important object that could possibly devolve upon us; for I apprehend that all our party struggles and all our practical legislation sink into insignificance as compared with a question which affects not only our highest law—political law, which is the highest law of any country—but even affects our self-respect and the future character of our national habits.

Mr. LANGTON.—I beg to ask whether, if I withdraw the amendment, the honorable and learned member for Brighton will withdraw his resolutions, so that the House may pass any resolutions it pleases?

Mr. HIGINBOTHAM.—If the amendment is withdrawn, I desire that the resolutions should be considered seriatim in committee.

Mr. LANGTON.—On that understanding I will withdraw the amendment.

The amendment having been withdrawn, the House went into committee to consider the resolutions.

Mr. HIGINBOTHAM proposed the adoption of the first resolution, as follows:—

"That the care of the political rights and interests of a free people can be safely intrusted only to a body appointed by and responsible to that people; and that the Legislative Assembly declines to sanction or to recognise the proceedings (so far as the same may relate to Victoria) of the conference proposed to be held in London, at the instance of a self-constituted and irresponsible body of absentee colonists."
Captain MAC MAHON moved that progress be reported, in order that, before the discussion of the resolutions seriatim was commenced, honorable members who desired to propose amendments might have time to prepare them.

Mr. MACPHERSON opposed the motion. He said that the consideration of the resolutions had already been postponed three or four times, and three weeks had elapsed since they were first brought forward. The opinion of any honorable member who had not studied them, and who was not already in a position to submit any amendments he thought desirable, could scarcely be worth having. The discussion of the resolutions was the only business to go on with that night, and the Government were most anxious that it should be proceeded with. They were prepared to suggest amendments. If the House desired to postpone the matter again, the onus must rest with it and not with the Government.

The committee divided on the motion for reporting progress—

Ayes ... ... ... 28
Noes ... ... ... 22

Majority for reporting progress ... 6

AYES.

Mr. Burrowes, T. Cope, Crews, Davies, Grant, James, Kerferd, Lobb, MacBain, Mackay, Capt. Mac Mahon, Mr. Mason, McCaw, McCulloch, Miller, Tellers. Mr. Bates, Burtt.

NOES.

Mr. Baille, Blair, Cohen, Duffy, Everard, Farrell, Henna, Harcourt, Higinbotham, Jones, Langton, Longmore, Dr. Macartney, Mr. McDonnell, Macgregor, Macpherson, McKean, Riddell, T. Smith, Thomas, Tellers, Mr. Kitto, McKenna.

The House resumed, and progress was reported.

EXPLORATION LIABILITIES.

The House having gone into committee, Mr. MACGREGOR moved—

"That an address be presented to His Excellency the Governor, praying that there may be placed upon an Additional Estimate for this year the sum of £332 18s., in full and final discharge of all claims and liabilities in respect of the Burke and Wills Exploring Expedition."

Mr. VALE suggested that the matter should be postponed until the following day, in order that honorable members might have before them more detailed accounts—accounts which would show the amount of interest charged on the bank overdraft, which it appeared had led to this additional demand upon the Legislature.

Mr. EVERARD urged that the motion should either be agreed to or negatived. He objected to such a question being postponed. He was opposed to the motion. He thought the State had contributed enough for exploration purposes, and that the gentlemen who formed the Exploration Committee might, among themselves, make up the amount that was deficient.

Mr. McCULLOCH considered that the committee were entitled to be satisfied in reference to the demand now made. He concurred with the honorable member for Collingwood (Mr. Everard), that enough, if not too much public money, had been contributed for exploration; at the same time he thought it might be wise policy to contribute a small additional sum if the whole matter could be settled.

Mr. MACGREGOR observed that the committee would be competent for honorable members, if they were not satisfied with the accounts which might be furnished, to reject the resolution, on the consideration of the report.

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

The House adjourned at a quarter to ten o'clock.

LEGISLATIVE COUNCIL.

Thursday, November 25, 1869.


The PRESIDENT took the chair at twenty-six minutes past four o'clock p.m., and read the prayer.
LAND GRANTS FOR CHURCH PURPOSES.

The Hon. T. T. a'BECKETT moved—
"That there be laid on the table of the House a return showing the quantity of Crown land promised, granted, or reserved for the different religious denominations entitled to receive a portion of the grant, applicable under the 33rd section of the Constitution Act, to the advancement of the Christian religion; distinguishing the gross amount allotted separately to each denomination, and the locality and quantity of each separate allotment." The motion was agreed to.

PETITION.

A petition was presented against the State Aid to Religion Abolition Bill, by the Hon. T. T. a'BECKETT, from certain members of the United Church of England and Ireland.

ABATTOIRS BILL.

This Bill was recommitted. Several formal amendments having been made, the Bill was reported with further amendments, and the report was adopted.

MINING COMPANIES BILL (No. 2).

This Bill was recommitted. Several formal amendments having been made, the Bill was reported with further amendments, and the report was adopted.

DOWER BILL.

The Hon. C. J. JENNER moved the second reading of this Bill. The motion was agreed to, and the Bill was read a second time and committed pro forma.

LOCAL GOVERNMENT ACT AMENDMENT BILL.

This Bill was recommitted. Several amendments consequential on those made in the Municipal Corporations Law Amendment Bill having been made, the Bill was reported with further amendments, and the report was adopted.

STAMPS BILL.

On the motion of the Hon. C. J. JENNER, the report of the committee on this Bill was adopted, and the Bill was read a third time and passed.

MUNICIPAL CORPORATIONS LAW AMENDMENT BILL.

The House went into committee for the further consideration of this Bill. On clause 251, providing that the special and general rates, taken together, for any borough should not exceed 3s. in the £1 of the annual assessment of the rateable property, and that special rates should not exceed 1s. in the £1, the Hon. C. J. JENNER moved that “2s. 6d.” be substituted for “3s.” and “6d.” for “1s.”

The amendment was agreed to.

On the motion of Mr. JENNER, the following new clause was adopted:

“For the temporary accommodation of borough councils pending the receipt of road subsidies, or rate endowments, for grants payable by the Government, or acceptance of general or special rates, it shall be lawful for councils, for the purpose of carrying on or completing public works then in progress, to obtain advances from banks by overdraft of the current account, but no such overdraft or accommodation shall at any time under any circumstances exceed one-half of the prior year's income; provided also that such bank overdraft shall be liquidated before the conclusion of each financial year.”

Mr. JENNER also proposed another new clause, to enable the council of any borough (subject to the approval of the Governor in Council) to advance money to the council of any adjoining borough or shire, or to the board of any adjoining road district, not exceeding in any one year an amount equal to the prior year's income of such borough, shire, or road district respectively, for the purpose of making or repairing roads leading into such first-mentioned borough; and empowering the local body borrowing the money to give a first mortgage over not more than one-fourth of its gross annual income, as security for the repayment of the loan.

This clause was likewise agreed to.

On clause 326, making exemption from road toll, Mr. JENNER moved that members of either House of Parliament, police magistrates and wardens when on duty, and ministers of religion, should be added to the list of persons exempted from the payment of toll.

The amendment was agreed to.

On clause 350, empowering the council to make a water rate, not to exceed in any year the sum of 1s. in the pound, Mr. JENNER proposed that “6d.” be substituted for “1s.”

The amendment was agreed to.

On clause 354, empowering the council to provide markets, The Hon. J. F. STRACHAN proposed the addition of words prohibiting the establishment of a market “within one mile of the boundaries of the town of Geelong, as set forth in schedule A. to the Act passed in the twenty-first year of..."
the reign of her present Majesty, and numbered 54."

The amendment was agreed to.

Two new clauses, empowering the council to make arrangements for the removal of trades of an offensive nature, and to give compensation, were inserted after clause 395.

On clause 410, relating to the payment of existing borough liabilities, and providing that they should be discharged within four years from the passing of the Act by yearly instalments of not less than one-fourth of the whole amount of the debt,

Mr. JENNER proposed the substitution of "six years" for "four years," and "one-sixth" for "one-fourth."

The amendment was agreed to.

On the 12th schedule, setting forth the by-laws which might be adopted by borough councils,

Mr. JENNER proposed the insertion of words providing that "every private vehicle and velocipede travelling or being driven" should carry lights after sunset.

The amendment was agreed to.

The Bill having been gone through, the committee proceeded to consider the postponed clauses.

Mr. JENNER proposed an amendment in clause 115. The clause related to the election of mayor, and empowered the council to make him an allowance not exceeding three per cent. on the gross income of the borough. The object of the amendment was to limit this power to boroughs whose income should not be less than £10,000.

The Hon. W. HIGHETT suggested that the whole provision relating to mayor's allowance be struck out.

Mr. JENNER explained that the object of his amendment was to confine the power of granting an allowance to mayors to such boroughs as Ballarat, Castlemaine, and Sandhurst, where there were large demands upon the purse of the mayor for the time being.

The Hon. W. CAMPBELL suggested that if there was to be a limit in this matter it should be £5,000. He considered that a borough whose income did not reach that amount should not have the privilege of making, if it felt so disposed, an allowance to its mayor.

The Hon. J. O'SHANASSY said, if the provision relating to mayor's allowance were struck out altogether, a borough like Sandhurst, which already gave its mayor something like £300 per year, would be prevented from doing so in the future. The amendment proposed by Mr. Jenner would not only preserve existing rights, but prevent small boroughs with small incomes making allowances where allowances were not needed.

The Hon. A. FRASER expressed the fear that the amendment would cause heart-burnings throughout the country. Boroughs which had not an income of £10,000 would be jealous of those which had. He thought matters had better remain as at present; invidiousness would thus be avoided. The mayor of a small borough had frequently to do more than the mayor of a large borough, for the reason that the small borough might be unable to pay a town-clerk or surveyor.

Mr. STRACHAN admitted that the mayor of a large town might have some claim to an allowance, but, as a general principle, he was decidedly opposed to the payment of mayors.

The Hon. R. SIMSON was opposed to the principle of paying mayors of boroughs, although he thought those functionaries ought to be in a position to dispense the hospitalities which they were necessarily called upon to do.

The amendment was agreed to.

On clause 118, declaring that mayors of boroughs should, by virtue of their office, be justices of the peace during their mayoralty and the year immediately succeeding their tenure of office, and that they should, during the period of their mayoralty, have precedence in all places within their boroughs,

Mr. JENNER suggested that the difficulties which were referred to when the clause was last under the consideration of the committee, would be met if, for the words providing for the mayor, during the period of his mayoralty, having precedence "in all places within the borough," words were substituted which would give the mayor precedence in all municipal proceedings. If the suggestion were carried out, police magistrates would not be prevented from presiding on the bench on certain occasions. He moved that the commencement of the clause should be amended to run thus:—

"Subject to the provisions of any law now or hereafter in force relating to justices of the peace, the mayor for the time being of every borough shall, by virtue of such his office, be a justice of the peace of and for the district of general sessions within which the borough of which he is mayor is situate."

The amendment was agreed to.
Mr. HIGHETT thought it would be better to strike out the words "and such mayor shall, during the time of his mayoralty, have precedence in all places within the borough."

Mr. SIMSON was not satisfied that the amendment would be sufficient if the suggestion of Mr. Highett was adopted. He would not assent to any proposition which would enable an unlettered and totally inexperienced man, in virtue of his mayoralty, to take precedence of those whose professional and official training qualified them for the office of chairman of the bench of magistrates. The mayor should certainly be allowed to take precedence in all municipal proceedings within the borough, and if a plan of that kind could be distinctly defined he would offer no objection to it, but he would not go beyond that length. He moved that an amendment be made in the part of the clause under discussion, so as to make it read as follows:—

"and such mayor shall, during the time of his mayoralty, have precedence in all municipal proceedings within the borough."

The amendment was agreed to.

The Bill was then reported with amendments.

STATE AID TO RELIGION ABOLITION BILL.

On the motion of the Hon. C. J. JENNER, this Bill was read a first time.

The House adjourned at nineteen minutes to eleven o'clock, until Wednesday, December 1.

LEGISLATIVE ASSEMBLY.
Thursday, November 25, 1869.


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

PETITIONS.

Petitions were presented by Mr. KERNOT, from the Reliance Tent of the Independent Order of Rechabites, and by Mr. MCCAW, from the Fidelity Tent of the same order, in favour of the Wines, Beer, and Spirits Sale Statute Amendment Bill; and a petition was presented by Mr. VALE, from inhabitants of East Collingwood, against the proposed sale of the market reserve in that borough.

THE MINT.

Mr. MACPHERSON, pursuant to order of the House (dated October 27), laid on the table a return in reference to the branch of the Royal Mint about to be established in Victoria.

NORTH BOTANICAL GARDENS.

Mr. CREWS asked the Government if they were aware that the City Corporation had obstructed the fencing of the Friendly Society's Gardens; and if so what action they would take to settle any dispute that existed? The honorable member stated that, prior to fencing this reserve (which had recently been handed over to the friendly societies by the Government), the trustees applied to the City Corporation for information as to the proper position in which to place the fence. Not receiving any reply, they commenced the work, but as soon as a portion of the fence was erected it was pulled down by some men acting under the orders of the Corporation.

Mr. McKean replied that the Assistant Commissioner, who, with a surveyor, had examined the ground that day, reported to him that the trustees of the friendly societies had encroached upon the road, with their fence, to the extent of about a foot. It was to be regretted that they did not take care that the boundaries were properly adjusted before they commenced fencing, but he believed that concessions would be made on both sides, and that an amicable arrangement would be arrived at.

ELECTORAL LAW.

Mr. DUFFY asked the Chief Secretary whether it was his intention to prepare an Electoral Bill to submit to Parliament next session, with a view to an amendment of the law before a general election took place?

Mr. MACPHERSON said that such a measure was very necessary, and he was surprised that no attempt had been made to introduce one two or three years ago. The Government would take the earliest opportunity of considering the question, for he believed that a Bill should be passed before the next general election.

THE PUBLIC ACCOUNT.

Mr. MCKENNA asked the Chief Secretary what rate of interest the associated
banks allowed on the daily balance of the public account? He understood that the rate did not exceed two per cent., which he deemed too low, especially as the banks charged borough and shire councils, as well as other public bodies, from seven to eleven per cent. interest on overdrafts. He hoped that the Government would take some steps to induce the banks to allow a higher rate of interest than two per cent.

Mr. MACPHERSON read a memorandum from the Treasurer, stating that the interest upon the weekly average balance for the half-year ending the 13th June, 1869, was at the rate of two per cent. per annum. He added that his honorable colleague had taken steps to ascertain if a higher rate of interest could be procured, and had received offers of four per cent., on which terms he had transferred one account.

CLERKS OF PETTY SESSIONS.

Mr. JONES called attention to the large increase of duties devolving on clerks of petty sessions under the new County Courts Act, and asked the Attorney-General whether arrangements had been made, or would be made, to proportion the pay of these officers to their greatly extended duties? The honorable member said that some of the clerks of petty sessions also performed the functions of clerks of courts of mines, and their salary was only £60 or £70 per annum, while they had to give security for something like £1,000. Under the new County Courts Act, which had recently come into operation, their duties would be greatly extended. He trusted that the Attorney-General would take the matter into account, and make proper arrangements for recompensing these public servants in accordance with the duties which they had to perform.

Mr. McCONNELL replied that he would inquire into the matter, and, if he found that these officers were underpaid, and that their duties had been increased, he would endeavour, as far as possible, to see justice done to them.

MR. R. D. SCOTT.

Mr. WHITEMAN asked the Minister of Lands what action the Government intended to take with regard to the late District Surveyor Scott, of Camperdown, in view of the minutes and telegrams left by his predecessor?
gaols in question were perfectly unnecessary as penal establishments, their average number of prisoners not exceeding 30 or 35. The Government had not reinstated any one who had not been promised reinstatement by the late Ministry, and they had not reinstated all to whom promises had been given.

Mr. MACPHERSON remarked that the Government had not reinstated any one who had not been promised reinstatement by the late Ministry, and he believed that the appointment, as governors, of the senior turnkeys at the Maryborough and Ararat gaols was also carrying out a promise of the late Government. He did not think there could be any objection to create those officers governors, provided there was no excess of salary.

IMMIGRATION.

In reply to Mr. Duffy, Mr. MACPHERSON stated that the Government had determined to appoint a fourth commissioner for immigration—an Irishman—and that steps would be taken to carry out the appointment by the next mail.

NATIONAL GALLERY.

Mr. MACPHERSON.—Mr. Speaker, I have taken the opinion of counsel in reference to the proposed creation of additional trustees for the Public Library. It will be in the recollection of the House that some time ago I stated that I had brought the matter under the notice of my honorable colleague the Attorney-General, who was of opinion that the plan proposed by the late Government could not be carried out. Of course I merely announced the opinion of the Attorney-General, for I do not profess to give legal opinions here; and, when the House appeared to be dissatisfied with the Attorney-General's opinion, I stated that I would take an opinion from Temple-court, which would be an independent opinion. I now hold in my hand the opinion of Mr. Wilberforce Stephen, which I will read, together with the case submitted to him:

"Case.—Counsel has herewith a copy of a grant from the Crown made on the 17th February, 1858, to Sir W. F. Stawell, Sir J. Palmer, Sir Redmond Barry, H. C. E. Childers, and D. C. McArthur, of a piece of land as a site or place for a building to be used as a public library. The grant contains power for the Governor in Council to appoint new trustees. There is also another grant from the Crown, dated 20th February, 1864, to Sir W. F. Stawell, Sir J. Palmer, Sir Redmond Barry, D. C. McArthur, and Sir Francis Murphy, of a piece of land as a site or place for a public museum and garden, in connexion with the Melbourne Public Library. It will be observed that this grant differs from the last in having contained therein a proviso as to the making of regulations as to the use of the land and buildings for a museum, and on the appointment of a new trustee, of increasing the number of trustees. There is also a part of this grant, which since was prepared in the Chief Secretary's office for the appointment of new trustees, and the purposes therein mentioned. Counsel will please advise—Whether this memo. will carry out the objects and purposes for which it has been prepared, and whether the number of trustees can be increased as to the second grant, and whether the objects of the memo. can in any way be carried out without an Act of Parliament? Also, whether the trustees of the Public Library are merely trustees of the land on which the building is erected, and whether there is any difficulty in appointing the same gentlemen and others trustees of the book, pictures, and exhibits in the library, gallery, and museum.

"Opinion.—The draft memo. which accompanies the case is, I think, prepared under a misconception. The grants are of portions of land upon certain defined trusts—the first for a public library, and the second for a public museum and garden, under regulations to be made by the trustees. These trusts cannot be varied, simplified, or explained by any authority short of an Act of the Legislature. The general rule is, that the number of trustees ought not to be increased unless under an express authority to do so. As regards the land granted by the second grant, there is such an authority; but it can, in my opinion, only be exercised on the occasion of supplying a vacancy in the office of trustee. I think the trustees are in strictness only trustees of the land, that is, they are so only so far as their title depends upon the grant; but they may easily acquire in that character the ownership of books, &c., if such chattels are given to them, or if the money to purchase books, &c., is paid to them as trustees. They would then hold the books, &c., as trustees of the library, so they would in effect become trustees of the personal property, as furniture, of the buildings vested in them by the grant upon the trusts declared by it. I think there would be great practical difficulty in appointing other gentlemen, together with the trustees of the buildings, to be trustees or owners of the pictures and exhibits, to be placed in the buildings. It might, I think, be done with the consent of the trustees of the buildings, but it would be difficult, if not impossible, even with their consent, to confer upon the trustees of the chattels any rights of occupation or use of the buildings. There can hardly be a divided right of occupation of the piece of land and building. At all events, I do not think there could be created which would not in effect be a derogation of the exclusive rights of the trustees under the grants.

"J. W. Stephen.

"32 Temple-court, Nov. 20, 1869."

As it is most desirable that the number of trustees should be increased, I will ask..."
honorable members whether it is not expedient that the Public Library Bill, which passed this House two years ago, and was read a second time in the Legislative Council, should be re-introduced? The trustees wish the matter to be disposed of. They feel that their duties are too severe, and they are anxious to be relieved by the appointment of new trustees, who shall be on the same footing as themselves. I think that a Bill might be introduced for that purpose, and obtain the sanction of Parliament in a week. I hold in my hand a letter from Sir Redmond Barry, which is, to some extent, connected with this matter, and which, with the permission of the House, I will read—

"November 19, 1869.

"Sir,—1. In a newspaper of this date, usually very accurate, the honorable and learned member for Dalhousie is reported as having stated in his place on Thursday—'The Commission of Fine Arts which formerly acted—Mr. Michie, Mr. Verdon, Mr. Wardell, and himself—were for obtaining copies of some old masters; after they rout Sir Redmond Barry, who he believed was the commission at present, ordered the Murillo copy.'

"2. As I am not in a position to answer the honorable and learned member, I have the honour to request that, if the rules of the House will permit, that you will do me the justice to make, on my behalf, the following statement of fact.

"3. The honorable and learned member was in Europe during a large portion of the time when the commissioners were engaged in maturing their views on the subjects submitted to them; they were thus deprived of the advantage of his learning and experience in assisting them to draw up their second report.

"4. The resolutions embodied in that report, recommending the purchase of copies, were proposed by Mr. Verdon, as an amendment on the motion of the honorable and learned member, and carried without a division, at one of the fullest meetings of the commission ever held.

"5. To that recommendation I gave my hearty concurrence, conceiving that it was framed judiciously, and in a spirit calculated to prevent the introduction to the gallery of an undue proportion of copies.

"6. The instructions sent to Mr. Childers and Sir Charles Eastlake were carefully settled by the commissioners, and, by their direction (with the permission of the honorable the Chief Secretary), forwarded to London by me as chairman. After the death of Sir Charles Eastlake, the same instructions, accompanied by copies of the second report, were sent to Mr. Thomson for his guidance.

"7. I never presumed to authorize any departure from them; I never ordered the copy of Murillo, nor did I order any other picture, original or copy.

"8. Having offered this statement, which the candour of the honorable and learned member will doubtless induce him to accept, I may be permitted to add, that the second report of the commissioners was presented to both Houses of Parliament by command. In that report was a recommendation (part 4) that a Bill should be introduced into Parliament to increase the number of trustees, &c., &c.

"9. A Bill, drawn up by the honorable the Chief Justice and myself, was introduced, passed the Assembly after undergoing some alteration, which I venture with all deference to say made it less liberal than it stood originally, and in all probability would have become law more than two years since, but for the sudden prorogation of Parliament, when the third reading was at the moment occupying the attention of honorable members.

"The trustees have on several occasions since respectfully and urgently requested that the Bill may be brought forward again; their desire is that the question may be dealt with in such manner as Parliament may consider conducive to the existing and proposed extended usefulness of the institution and the general interests of the public, in the most effectual manner, that is, according to law.

"I have, &c.,

"REDMOND BARRY,

"One of the trustees of the Melbourne Public Library."

Mr. Duffy.—I should be sorry to misrepresent the learned judge or any other gentleman, but I confess that I fail to catch the ground upon which he contradicts my statement. My statement was that when the commission was in full operation an order was arrived at that copies of the best masters should be had. Since that period the commission has ceased to be, and copies have been ordered—if not by Sir Redmond Barry, then I don't know by whom. He is the only member of the commission, as far as I know, who continues to act in connexion with the expenditure of money, and if money has been expended by some other authority I do not know what it is. I believe, in point of fact, that the trustees of the library, acting through Sir Redmond Barry, without any special authority—or any authority—over the expenditure of this money, have ordered whatever has been done since the Fine Arts Commission has ceased to exist.

UPPER MURRAY RAILWAY.

The resolutions agreed to in committee, on November 16 and 24, authorizing the expenditure of £193,000 in connexion with the construction of the North-eastern Railway, were considered and adopted.

RAILWAY LOAN APPROPRIATION BILL (No. 2).

Mr. Longmore brought in a Bill (founded on the resolution passed in committee on November 16) "to sanction the issue and application of certain sums of money from the Railway Loan Account..."
for salaries, wages, and contingencies for the service of the year 1869," and moved that it be read a first time.

The motion was agreed to.

The Bill was read a first time, and was subsequently passed through its remaining stages.

ADMINISTRATION OF THE LANDS DEPARTMENT.

Mr. McKEAN said that he would be prepared to go on with the report of the Lands Department Committee on Tuesday, or, if honorable members thought it advisable, he was ready to proceed with it at once. ("Go on."")

Mr. MACPHERSON hoped the House would come to an arrangement that no other important debate should be commenced until those already in progress—the debates on the education question and on the subject of the relations between the colony and the Imperial Government—were concluded. It was very undesirable that three important debates should be taking place concurrently.

Mr. BURTT urged that the two honorable members whose characters were reflected upon in the report of the Lands Department Committee should not be kept in suspense.

Mr. MACPHERSON remarked that he wished the report to be considered at the earliest possible opportunity, but he thought that the other questions to which he had referred ought first to be disposed of.

After some remarks from Mr. McCulloch and Mr. Mackay, the subject dropped.

SCAB ACT AMENDMENT BILL.

Mr. MACBAIN asked the Chief Secretary what the intentions of the Government were with regard to this Bill? He observed that it was rumoured out-of-doors that the Government intended to shelve the measure for this session, but he hoped that would not be the case, as the existing Scab Act was virtually a dead letter.

Mr. MACPHERSON regretted that the House had not accepted the amendments made in the Bill, by the Legislative Council, for the establishment of boards. Having rejected those amendments, the adoption of which would have secured the passing of the measure, he believed that it would be a waste of time to consider the other amendments. He did not think that it would now be possible to get the Bill passed this session. It was, however, open to the honorable member for Mornington or to the honorable and learned member for South Bourke, to ask the House to deal with the amendments which had not yet been considered.

At a subsequent period of the evening, on the order of the day for the further consideration of the Council's amendments (the consideration of which had been postponed from November 11),

Mr. MACPHERSON again intimated that it was not the intention of the Government to ask the House to proceed with the Bill.

Mr. McCulloch trusted that the House would not refuse to deal with those amendments which had not yet been considered, merely because it could not agree with the whole of the amendments.

Mr. G. Paton Smith moved that the amendments of the Legislative Council be now taken into consideration.

Mr. MacGregor observed that the object of postponing the further consideration of the amendments until that day was to get rid of the Bill, because, judging from the nature of those of the amendments which the Assembly had rejected, there was little probability of the two Chambers coming to any agreement on the matter, and therefore any further time expended on the measure would be so much time wasted. As he still entertained the same view, he begged to move that the amendments be taken into consideration that day fortnight.

Mr. McLeLLAN expressed the hope that the House would proceed with the consideration of the amendments. A large number of his constituents were sheep-owners, and he should be sorry if, by any action on the part of the House, the law should be left in such a state as would make them feel that they were unprotected. The existing Scab Act was of no value, and therefore he trusted the Government would allow the amendments to be considered, so that the Bill might go back to the Upper House with a prospect of its becoming law.

Mr. McKean suggested that the present difficulty might be met by bringing in a Bill of three clauses which could be passed through both Houses in a night or two, leaving it to the Government to submit a comprehensive measure next session.

Mr. Macbain trusted the honorable member for Rodney would withdraw his opposition to the House proceeding with
the measure. He considered that all the amendments made in the Bill by another place, should receive the attention of the House. Until that was done, the differences between the Houses with regard to the Bill could not be ascertained. He was satisfied that the Council would give way rather than that the Bill should not pass.

Mr. G. PATON SMITH objected to the House surrendering its right to discuss amendments made in a Bill by the other Chamber. It did not follow that, because the Council's scheme in reference to local boards was not accepted, all the other portions of the Bill on which the Assembly, as well as another place, had bestowed a great deal of time, should be abandoned.

Mr. MACPHERSON appealed to the honorable member for Rodney to withdraw his opposition.

The amendment was withdrawn, and the motion was agreed to.

The consideration of the Council's amendments was then proceeded with.

Mr. G. PATON SMITH moved that the House disagree with the amendments in clause 6 made because of the provisions as to local boards, and also with the six new clauses relating to the appointment and duties of divisional inspectors.

The motion was adopted.

Mr. G. PATON SMITH called attention to the proviso added to clause 14, exempting the owners of sheep under 500 in number from contributing to the Scab Act Fund. He saw no reason for this exemption. He presumed it was made because, in the scheme for local boards, a person possessing less than 500 sheep was precluded from voting.

The amendment was disagreed with.

Mr. RUSSELL proposed the substitution for the words "liable to make contribution hereunder," inserted by the Council after the words "every owner of sheep" in the 1st line of clause 15, of the words "six months old." The clause required every sheep-owner to deliver yearly a declaration as to the number of sheep on his run, but it would be impossible for him to give a correct estimate of the number of lambs.

The motion was agreed to.

The other amendments in the clauses relating to the Scab Act Fund were accepted.

The amendment in clause 20, rendering liable to a penalty persons who refused to collect, at the instance of an inspector, "within any enclosure upon any such land or premises any sheep then being thereon," was agreed to.

A new clause (to follow clause 20) making it lawful for an inspector to demand the production of the sheep-book of a run, and rendering a person refusing liable to a penalty not exceeding £5, was accepted.

The transposition of clauses 22, 23, and 24, to part 6, there to form the first three of the series relating to travelling sheep, was acquiesced in; and the amendments in clause 22 were agreed to, with the exception of the proviso that notice of the driving sheep across land not belonging to the sheep-owner was not necessary in the case of an occupier with less than 500 sheep.

Mr. G. PATON SMITH, in calling attention to the amendments by which the Council abolished the distinction between "diseased" and "infected" sheep, said he was under the impression that honorable members of another place had very much mistaken the scope of the Bill. In a recent case tried in the Supreme Court the verdict went as it did because, although the sheep were actually infected, it could not be proved that they were scabby. The whole object of the Bill was to meet that difficulty, but the object would be defeated by the adoption of these amendments.

The amendments were disagreed with.

A new clause providing that "where any portion of a run is securely enclosed with an effectual fence or boundary, natural or artificial, such portion shall be deemed to be separately a run," for the purposes of that portion of the Bill relating to diseased and infected sheep, was agreed to.

On the amendments striking out clause 32, defining diseased sheep, and the concluding words of clause 33, defining infected sheep,

Mr. MACPHERSON stated that he had been informed by a member of the Council, who took a great interest in the question, that clause 32 was struck out by mistake.

The amendments were disagreed with.

The amendments in clause 35, in reference to the time when a sheep-owner should be considered to have become aware of his sheep being infected, were agreed to.

Mr. G. PATON SMITH invited an expression of opinion from honorable members conversant with the subject as to the amendment in clause 36, providing that the branding of infected sheep should be performed with red paint.
Mr. MACPHERSON said the amendment was necessary in order that the infected sheep might be conspicuous, ordinary sheep being branded with pitch. The amendment was agreed to.

A new clause making it compulsory on every sheep-owner to dip infected sheep, within fourteen days after discovering that they are infected, was rejected.

A new clause empowering inspectors to require the cleansing of "any premises, yard, vehicle, or article found or used with or about any infected sheep," the penalty for non-compliance with the requirement being a sum not exceeding £10, was accepted, minus the word "promises."

The action of the Council in striking out clauses 52 and 54 was disagreed with, but in striking out clause 55 was acquiesced in.

The transposition of clauses 61, 66, 67, and 68, so that they might appear among the "miscellaneous provisions," was agreed to.

The amendment adding the words "without compensation" to clause 74, providing for the destruction of sheep driven into a clean district without the written authority of the inspector, was accepted.

The amendments in clauses 7, 9, 77, 78, 80, and 82 were agreed to.

The other amendments were disagreed with.

The House adjourned at half-past six o'clock, until Tuesday, November 30.

LEGISLATIVE ASSEMBLY.

Tuesday, November 30, 1869.


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

TELEGRAPH ARRANGEMENTS.

Mr. RICHARDSON reminded the Minister of Customs that, some weeks before, he called his attention to the inconvenience attending the closing of the telegraph-office in Melbourne on Sundays, as shown in the case of the wreck of the Victoria Tower. Similar inconvenience had since been experienced in connexion with the burning of the Lightning, in Corio Bay; and last Sunday afternoon the news reached Cape Otway of the loss of the Marie Gabrielle, but the fact was not known in Melbourne until Monday morning, because no officer was in attendance at the central telegraph station. He thought these circumstances were sufficient to impress upon the Government the necessity for having some one always in attendance at the central telegraph station.

Mr. COHEN explained that, in consequence of the representation made to him, he communicated with the Telegraph department, in order that some one might be kept on duty, night and day, at the central station.

Mr. MACPHERSON stated that, pursuant to the recommendation of the Minister of Customs, the Deputy Postmaster-General was instructed to make proper provision for attendance at the central telegraph station, on Sundays. Through an unfortunate accident, or, perhaps, carelessness, although communication was open between Cape Otway and Melbourne on the previous Sunday, the fact was not known by the operator at the former place, as the following telegram, dated November 30, would show:—

"Mr. Ford heard that strangers were on the cape at about five p.m., through his children, but thought that they were some people from Colac. First heard of the wreck when he went to his duty at the light-house, at sunset, when, knowing that the men were comfortably provided for, and that Sunday was a close day in telegraph-offices, he thought there was no occasion to take any steps until Monday morning."

EUROPEAN MAIL SERVICE.

Mr. KING inquired of the Chief Secretary when he would be prepared to lay on the table, for the information of honorable members, copies of the tenders which had been received by the Government for the postal service with Europe, via the Cape of Good Hope?

Mr. MACPHERSON stated he had had prepared a schedule of the tenders, which was open to the inspection of honorable members, though he was not in a position to lay it on the table.

Mr. McCULLOCH questioned whether the Chief Secretary was adopting a proper course. The dealing with these tenders was entirely a matter of administration. He thought it would be much better for the Government to withhold the tenders altogether, until they had come to some decision as to the recommendation which they should make to the House. It was
only fair to the tenderers that this should be done.

Mr. MACPHERSON said he did not propose to lay the tenders on the table, but he had in his possession a schedule of the tenders which he thought might be open to the inspection of any honorable member who might choose to examine it for his own information. The obtaining of these tenders, as he understood, was merely a tentative process. It was undertaken by the late Government on its own motion, after a discussion in the House on the subject. He thought it desirable that the country should know the offers which had been made to the Government for an ocean mail service. It was utterly impossible for the Government to submit a proposal dealing with the matter during the present session. He presumed that if the Government arrived at the conclusion, during the recess, that any of these tenders should be accepted, their publication now would make no difference—would be the same time he admitted that if the tenders were in the same position as ordinary tenders, the public—the matter should not be brought into the House or the late Government determined upon any scheme; all that was resolved upon, he believed, was that certain information should be obtained, and that then it should be decided whether mail communication via the Cape should be adopted.

Mr. McCULLOCH considered that if the tenders could be seen by honorable members they might as well be laid on the table, but he submitted that neither course would be fair to the tenderers. He understood that the House approved generally of mail communication via the Cape, and therefore he held that, before the tenders were published, there ought to be some recommendation from the Government. Certainly the tenders ought not to be thrown on the table to be subjected to a scrutiny different from that which the ordinary tenders in connexion with the postal service received.

Mr. FRANCIS urged that a commercial impropriety, if not a breach of faith, would be perpetrated by making public property of the proposals of persons who had responded to the invitation of Victoria to tender for a postal service which it might be to the advantage of the colony to establish. If the course were adopted, it was not likely that future invitations for tenders would be treated with any respect. An amount of honorable secrecy was expected to be observed under such circumstances, and the rule should not be departed from in this instance.

Mr. EVERARD said he could not understand the desire which seemed to prevail to keep the tenders quiet. He thought the House ought to know under what authority the tenders were called for. He did not remember any authority being given for the calling of tenders for a mail service via the Cape of Good Hope. Clearly the tenders were invited as an experiment; and therefore there could not be the slightest objection to lay them on the table. The late Chief Secretary could not have accepted any of the tenders, under any circumstances, without coming down to the House; and therefore the present Government were quite right in giving every possible information they could to honorable members.

Mr. LALOR asked what right had any Government to inform gentlemen upon whom they might call to furnish tenders that those tenders were to be confidential? He hoped and trusted that all tenders sent in to the Government should be open to public view. He approved of the action of the Chief Secretary in publishing the tenders, so that the people might know the designs, with regard to this question, both of the present Government and their predecessors.

Mr. G. V. SMITH observed that the last speaker appeared to forget that this question of mail communication via the Cape of Good Hope formed a portion of the political programme submitted to the country by the late Ministry. The matter was one in which the country took a great interest; indeed it was much more important than the question of assisted immigration, of which a great deal more was made. As to whether the tenders should be laid on the table or not, that was a matter for the consideration of the Government; the rule on the subject could be easily ascertained, and they could act accordingly. It was his intention to ask the Government, next day, what course they intended to pursue in reference to the general question of mail communication with Europe.

The discussion then terminated.
FINE ARTS COMMISSION.
In reply to Mr. Blair,
Mr. MacPherson stated that the secretary to the Fine Arts Commission was Mr. Theyre Weigall. He was not paid by salary, but by gratuity voted by the House, which, for 1863, 1864, and 1865, amounted to £70; and for 1866 and 1867 to £10. The last meeting of the commission was on the 9th July, 1867.

SANDHURST WATER SUPPLY.
Mr. Burrowes asked the Minister of Mines if he intended submitting a schedule of the works necessary for completing the Coliban water supply to Sandhurst, with the view of obtaining the sanction of Parliament to the expenditure during this session? The honorable member stated that, a few weeks ago, he introduced to the Minister of Mines a deputation from the Sandhurst Borough Council, seeking information on this subject, but without any satisfactory result. About a fortnight ago, he put a question, in the House, to the Minister of Mines, who then stated that he was waiting for information from the Chief Engineer. But the necessary information had been in the department for years.

Mr. J. T. Smith said he was not prepared to submit a schedule to the House until he had information as to the sum required for the completion of the works, but he hoped to be in possession of this information in a few days.

Mr. Burrowes remarked that the matter was one of life and death to the district which he represented. If the Government did not intend to take action, it would be for the district to adopt measures for supplying itself with water.

Mr. J. T. Smith said he was not disposed to ask the House for an additional £300,000 for water supply purposes without having some reliable data before him.

Mr. Mackay observed that the only conclusion which he could draw from the answers of the Minister of Mines was that the Government did not intend doing anything towards completing the Coliban scheme as far as the Sandhurst district was concerned. It was only proper for the House to be told whether the Government intended or not to complete works which had been so expensive, and which, he must add, had been so mismanaged. But, whatever the expense or the mismanagement, the carrying out of the works or the stoppage of them involved a very grave question of public policy. About the worst possible thing that could be done was to keep the works as they were at present—neither completing them, nor abandoning them. If the Government intended to adopt the latter course, after the expense to which the country had been put, let them say so. A reservoir had been constructed in the Sandhurst district, and a channel from that reservoir to Huntley had been made. The Water Supply department had in its possession applications for water supply from this reservoir, showing that a very handsome return could be obtained on the money expended, and yet for the sake of a miserable £10 to clear the channel, which was filled up, the inhabitants of the district could not obtain water. They had heard from time to time of the enormous amount of money expended on these works, and the enormous amount required to complete them. But he should like to know how the money had been spent. He denied that it had been spent in fairly endeavouring to carry out the Coliban scheme. He believed that a large portion of the expenditure which had been placed to the debit of the Coliban scheme, so far as Castlemaine and Sandhurst were concerned, had really been spent in flying surveys throughout the colony. Expenditure on flying surveys in the Mount Blackwood and other districts had been put down as expenditure on the Coliban scheme. He regretted to find the Government so weak and vacillating as to be unable to give a single assurance that the fair claims of Castlemaine and Sandhurst would be attended to.

Mr. Cohen remarked that it was not surprising that the honorable gentlemen who represented the Sandhurst district should feel a little sore that the water scheme intended to benefit their district had not been completed. But, as honorable members ought to know, there had been an extravagant waste of money in connexion with that scheme, and until a carefully prepared schedule of the further expenditure required—a schedule which could be depended upon—was submitted by the professional officers of the Water Supply department, the Government were not prepared to make any recommendation to the House on the subject. The Government were anxious that, in the future, public money should not be thrown away, as it had been in the past. He believed...
that £300,000 would be required to complete the works connected with the Coliban scheme, upon which about £750,000 had already been spent.

Mr. CASEY asked when it was likely that the schedule would be brought down?

Mr. McLELLAN trusted the Government would not bring down a schedule until they were in possession of correct information as to the works still required. Too many schedules, most of them incorrect, had already been submitted to the House. Schedules were first submitted to the effect that this scheme, which was to furnish 65,000,000 gallons of water per day, would be completed for something under £250,000. The expenditure on the works had, however, considerably exceeded that amount. They were now to be asked for another £300,000 to complete the works; but he questioned whether it would be possible to complete them under £750,000, and he believed that, if they were completed to-morrow, they would not continue in repair for many years. He believed further that, if the inhabitants of Castlemaine and Sandhurst were compelled to pay a fair amount of interest on the money expended on the scheme, both Castlemaine and Sandhurst would be deserted before five years were over. He did not wish to reflect upon the committee that initiated the scheme, but it was an unfortunate thing for the country that the majority of that committee was composed of gentlemen representing Castlemaine, Sandhurst, and other places directly interested. He was inclined to think that the better course was to present the works already constructed to the localities concerned, and leave the work of completion to them.

Mr. J. T. SMITH said the statement of the honorable member for Sandhurst (Mr. Mackay), in reference to flying surveys, was partly correct and partly incorrect. A considerable sum had been voted for that purpose for several years past. Probably, £56,000 out of £750,000 had been expended in flying surveys. The honorable member for Sandhurst should have exhibited the earnestness which he now manifested for the completion of the Coliban scheme before the money was all gone. He would remind the honorable member that works were still going on, and that those works would not be completed for some six months. The money raised under the loan was exhausted, and he was not prepared to ask the House for further money until he was in a position to submit something like a satisfactory statement. The Government were fully impressed with the necessity for the early completion of the works.

Mr. BURROWES intimated that he would renew his question on the following Tuesday.

Mr. LALOR considered that a great deal of the money expended on the Coliban scheme had been expended in mismanagement. He believed that, since the accession to office of the present Government, the Secretary of Mines had been appointed Secretary of Water Supply; and he was satisfied that, under this arrangement, a strict account would be exacted. He hoped the House would have patience, until the Minister of Mines was able to submit a report as to the prospects of the scheme, and a reliable estimate of the sum required for the completion of the works. At the same time, he considered that Parliament should not be prorogued until this information was furnished.

The subject then dropped.

THE "CERBERUS."

In reply to Mr. Kerferd, Mr. MACPHERSON stated that no additional information respecting the Cerberus had been received this mail from the Agent-General, but from statements in the newspapers it appeared that the vessel had been subjected to a further trial. With respect to the probable cost of the vessel, he might state that the amount set down was for hull and engines £120,000; temporary additions, including upper deck, masts, spars, sails, &c., £15,000; coals, provisions, wages, and stores, £4,000; armament, £20,000; contingencies, £1,000; making a total of £160,000, the Imperial contribution towards which was £100,000.

THE CENSUS.

Mr. VALE asked the Chief Secretary if the Government intended to introduce a Bill for taking the census prior to any amendment of the Electoral Act? He submitted that, in any attempt to amend the Electoral Act, the inequalities which had arisen in the matter of parliamentary representation through the accumulation of population in certain districts should be taken into consideration; but no amendment of the Electoral Act would meet this
difficulty unless the census was first taken. Some years ago a Bill to authorize a census was brought before the House, and it was thrown out because it was thought desirable that the census of the colony should be taken at the same time as the Imperial census. Now the Imperial census, he believed, was fixed for April, 1871. Therefore he begged to ask the Chief Secretary whether he intended to bring in a Census Bill early next session?

Mr. MACPHERSON said he saw no connexion whatever between the proposed amendment of the Electoral Act and the taking of the census. No doubt it was desirable that a census should be taken some time. Whether that time had arrived or not, he had not yet considered. But the electoral system was based on a registration provided for itself. The exact number of persons entitled to vote was known every year. There could be no difficulty whatever in curing the admitted evils existing under the Electoral Act; and that was all the Government intended to do. They did not propose to go into the question of altering the electoral districts.

SWAMPS.

Mr. ASPINALL asked the Minister of Lands whether it was intended to put a sum on the Estimates to drain the Government swamp lands at Elwood, South St. Kilda, and Elsternwick?

Mr. McKEAN said the Government had no present intention of doing so, but the matter would be considered during the recess.

WATER SUPPLY DEPARTMENT.

Mr. J. T. SMITH, in compliance with an order of the House (dated November 17), laid on the table a return of certain expenditure incurred by the officers of the Water Supply department.

THE SANDHURST MAGISTRATES AND THE BOY CANNING.

Mr. BURROWS asked the Attorney-General if he had received any report in reference to this case; and, if so, whether he would lay it on the table? The honorable member said that, from the manner in which the subject was brought under the notice of the House last week, great injustice had been done to an old and valuable public servant.

Mr. McCULLOCH moved for leave to bring in a Bill to provide for the incorporation and government of the Public Library and Museum of Victoria.

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

SUPPLY.

On the order of the day for the House resolving itself into Committee of Supply, Mr. LALOR asked if the Government would place a sum of £750 on the Supplementary Estimates for the benefit of the family of the late Mr. Nicholas Foot, who at the time of his death was one of the members for Geelong West? It seemed to have been established as a rule of the House that, when one of its members died and left his family in indigent circumstances, a sum of money should be voted to them out of the public purse. A sum of £750 was voted for the widow and children of the late Mr. John Ramsay (member for Maldon), and, as Mr. Ramsay's family was thus assisted, there was no reason why Mr. Foot's family should not be similarly provided for. He believed that the late Chief Secretary was not unfavorable to a sum being placed on the Estimates for this purpose.

Mr. McCULLOCH desired to know from the Chief Secretary what business the Government intended to go on with? It was understood on Thursday that the report of the committee appointed to inquire into certain allegations in connexion with the administration of the Lands department would be taken into consideration this evening.

Mr. MACPHERSON remarked that he had a distinct understanding with the House a week ago that the debates at present in progress should be finished before the report of the Lands Department Committee was taken into consideration. (“No.”) It was his impression, at all events, that the House agreed with him that it was not desirable that three important debates should be going on at the same time. The debate on the resolutions as to the relations between the colony and the mother country, and the debate on the education question, were both still undisposed of, and he hoped that they would be cleared out of the way before any other question which was likely to give rise to a long discussion was dealt with. Of course the Government were in the hands
of the House. If the House would insist upon opening a debate on the third question, the Government could not help it.

Mr. McCULLOCH said that the Government were not in the hands of the House. If they were a Government at all, they ought to carry on the business in the way they wished to do. Was it their intention to go on with the education vote this evening?

Mr. MACPHERSON intimated that it was.

Mr. McCULLOCH submitted that the report of the Lands Department Committee ought to be dealt with at once. The report cast a reflection upon two honorable members of the House, and it was unfair that it should be kept hanging up week after week. If the consideration of the report was not proceeded with, it would be better to go on with the discussion of the resolutions relative to the connexion between the Imperial Government and the colonies before the education debate was resumed.

Mr. STUITT said that if the Chief Secretary had suffered all the annoyance and injury which he had experienced during the last six months, through garbled statements and reports published in the newspapers, the honorable gentleman would be of opinion that the report should be considered at once.

Mr. HIGINBOTHAM considered that the education debate could be better postponed than either of the other questions referred to by the Chief Secretary.

Mr. DUFFY observed that the question referred to the committee on the Lands department was originally treated as a matter of privilege, and undoubtedly it was such. It affected the character of certain members of the House; indeed, the character of the whole House was involved in it. The report ought to have been promptly dealt with, and he trusted that the House would proceed to consider it without further delay.

Mr. G. PATON SMITH said it was distinctly understood, last Thursday, that the report of the Lands Department Committee would be taken into consideration this evening.

Mr. McKean expressed his readiness to proceed with the consideration of the report at once, if the House did not think it desirable that the debates on the education question and on the resolutions as to the connexion between the Imperial Government and the colonies should first be disposed of.

Mr. LANGTON urged the Government to insist that the postponed votes should be passed without any further delay. It was currently reported, he said, that a dead-lock of longer or shorter duration would commence next day. There had been quite enough of dead-locks. He trusted that honorable members would take care that the credit of the country should be maintained and the public liabilities be discharged as they became due. He despaired of seeing any end to the present session unless the Government were determined that the Estimates for the year should be passed.

Mr. MACPHERSON stated that the Government had been so firm in their determination that the public business should be conducted as they believed would be most conducive to the interest of the country, that they had never given way except when there was a vote of the House against them. The honorable member for Mornington said that the Government had no right to place themselves in the hands of the House, but that it was their duty to decide how the business should be conducted. He proposed to do so, and that was why he refused to accept the dictatorship of the honorable member as to what course he should adopt. He should ask for Supply, and persist in doing so. If the House did not choose to go on with Supply, a certain effect would follow.

(Mr. G. Paton Smith—"Is that a threat?") It was not a threat; he was not in the habit of making threats.

Mr. VALE hoped that, immediately the House went into Committee of Supply, progress would be reported, in order that the report of the Lands Department Committee should be dealt with. That report had been on the table for some weeks, and it was published surreptitiously in certain newspapers before it became the property of the House. A gross injustice was done to the two honorable members who were reflected upon in the report, by postponing its consideration week after week. It was no unusual thing, either in that House or in the House of Commons, to dispose of a considerable amount of financial business towards the close of the session. When the report of the Lands Department Committee was got out of the way, honorable members would be in a better temper to go on with the remainder of the Estimates. It was the duty of the House to deal with the report at once.
Mr. LALOR reminded the Chief Secretary that he had received no answer to his question.

Mr. MACPHERSON replied that there was no minute on record that his predecessor proposed to place a sum of money on the Estimates for the purpose referred to by the honorable member for South Graut (Mr. Lalor). Such a vote ought to be initiated by the action of a private member rather than by the Government.

The House then went into Committee of Supply.

On the vote of £29,384 13s. 4d. for education, making the total vote for the year £176,093 6s. 8d. (the discussion of which was adjourned from November 24), Mr. G. PATON SMITH moved that the Chairman report progress. It was no doubt desirable that there should be no delay in paying the salaries of the civil servants for the ensuing month, but it was infinitely more important that a report which impugned the personal honour of certain members of the House should not remain any longer undated with. The Government were shirking a responsibility in declining to invite the House to consider the report. He hoped that the committee would refuse to vote any further Supplies until the report was disposed of, notwithstanding the threat of the Chief Secretary.

Mr. MACPHERSON explained that when he said that, if the House refused to go into Committee of Supply a certain effect would follow, he was under the impression that the order of the day would drop from the paper. He was mistaken, however; because he had since ascertained from the Speaker that the only effect of such a refusal would be the postponement of the order of the day until the next sitting. He had no intention of holding out any threat. As to the report of the Lands Department Committee, it was necessary that some progress should be made, inasmuch as no money would be available until the Appropriation Act was passed. There was no reason why the remaining votes on the original Estimates should not be disposed of in two hours.

Mr. McCULLOCH remarked that nothing would be gained by discussing the remaining votes, because payments could not be made until the Appropriation Bill or a Supply Bill was passed. It was distinctly understood that the report of the Lands Department Committee should be taken into consideration that evening, and, seeing that it reflected very seriously upon the character of two honorable members and of the House generally, it ought to be dealt with at once.

Mr. J. T. SMITH submitted that it was a matter of great importance that the Crown should obtain Supplies and be enabled to keep faith with its servants. The Chief Secretary invited the House to work and not to talk. As eleven months of the year had expired, it was impossible that any decrease could be made in the Estimates without a breach of faith, and therefore the remaining votes might be passed in sufficient time to allow the discussion on the report of the Lands Department Committee to commence that evening.

Mr. McCAW pointed out that the public creditors would not be paid any sooner by dealing with the postponed votes before the report of the Lands Department Committee, because the Appropriation Bill would be necessary to make the Supplies available.

After some remarks from Mr. KERFERD and Mr. WILSON,

Mr. COHEN said the Government had no wish to retard the consideration of the report of the Lands Department Committee, but they desired to get all the remaining votes on the original Estimates passed first. It appeared, however, that honorable members had lost all taste for the legitimate drama, and that nothing but sensational business would go down with them.

Mr. FELLOWS observed that any honorable members who thought that the Lands Department Committee had arrived at a wrong conclusion, might have taken steps to test the feeling of the House as to the report on the motion for going into Committee of Supply. As they did not
raise the question in a legitimate way, he trusted that they would be prevented from doing so in the somewhat un-English fashion now attempted.

The committee divided—

Ayes ... ... ... 31
Nees ... ... ... 25

Majority for reporting progress... ... 6

Ayes.


Nees.


The House resumed, and progress was reported.

ADMINISTRATION OF THE LANDS DEPARTMENT.

COMMITTEE'S REPORT.

Mr. McKean.—Mr. Speaker, with reference to the motion which stands in my name, to the effect that the report of the Crown Lands Department Committee be now taken into consideration, I desire to repeat to the House a statement that I made to the honorable member for South Grant (Mr. Stutt) some days ago as to the course of procedure which I propose to adopt on this occasion. It was this: that I would first ask the House to deal with his case, and afterwards with that of the honorable member for Creswick (Mr. Miller); and that I would then make any statement I had to make in following up my remarks as to the observations I made when addressing my constituents at the Maryborough election. I feel that it would not be proper for me to make any statement with reference to the administration of the Lands department during the occupancy of office of the honorable member for Avoca (Mr. Grant) until after these two cases have been disposed of, because if I did matter might be introduced into the consideration of this report which might prejudice the minds of honorable members during the discussion which may arise upon it. I therefore content myself with moving that the 18th paragraph of the report—which is in the nature of a résumé of the evidence in the case of the honorable member for South Grant—be read.

The Clerk read the paragraph, which was as follows:—

"In this train of circumstances—in the continuos intermeddling of Mr. Stutt in a case with which he had no legitimate connexion—in his relations with Hadden—in his attempts to induce Mills to withdraw his statutory declarations—in the conversations concerning the £100—in the proposed prosecution of Mills for perjury—in Mr. Stutt's presentation of Mills's letter, written at the City Buffet, after authority to present it had been refused; and in the immediate sale of the land, after its presentation, to a man who was not a bona fide selector, your committee cannot hesitate to recognise a distinct case of undue influence of a Member of Parliament in the administration of the Lands department."

The Speaker.—The proper course to pursue is to call upon the honorable member referred to in the portion of the report which it is proposed to consider now, to make his statement, and for him then to retire.

Mr. Stutt.—Mr. Speaker, it is now, as honorable members will recollect, some five or six months since I brought an action for malicious libel against Mr. Ross. Subsequently a committee was appointed by this House to inquire into alleged undue influences exercised by Members of Parliament in the Lands department. Sir, I originally intended to bring the action in the Police Court, a course which I should recommend any honorable member who may fall into the same difficulties that I have fallen into to pursue; for I never desire to see any friend of mine—may, not even my greatest enemy—standing before a parliamentary committee, after what I have undergone. I have had to contend against not only jeer and insult, but questions have been asked me which would not have been permitted by the most illiterate magistrate in this country to be asked of the greatest vaga-bond that could be brought before him.
Let me look at the committee who entered upon this task. Certain members of it I esteem and respect, but there are other members of it who, I repeat, asked me questions that would not have been allowed to be put in any court in this or any other civilized country. Sir, this was a fishing inquiry; and, as it proceeded, it seemed to me that the committee were more anxious than anything else to ascertain who stopped at my place, who boarded there, and what I charged them a week for their board. These seemed to me to be the leading questions that occupied the minds of the members of that committee. Sir, I must say again, after what I have gone through, that I should be sorry to see the greatest enemy I have in this House, save one, standing before a parliamentary committee. There is one, however, who I should like to see in that position. However, I will not occupy the time of the House any further on this branch of the subject, but I will now take up the report and deal with it. I think I shall be able to show honorable members that this report has been framed, carefully framed, with a view to quoting all the evidence on one side, given by one solitary witness, whilst the evidence on the other side, consisting of the testimony of three or four respectable disinterested men, has been entirely ignored by the framer of the report. He quotes most carefully all the evidence given by Mills, and forgets or neglects altogether to say one word on the other side. I say that the framer of this report—the honorable member for Dalhousie—

The SPEAKER.—I call the attention of the honorable member to the fact that the proceedings of the committee are not at present under the consideration of this House; and the honorable member who drew up the report must not, any more than any other honorable member of the committee, be identified with the framing of it.

Mr. VALE.—I trust the honorable member for South Grant (Mr. Stutt) will be allowed some freedom, in consideration of the peculiar circumstances in which he is placed. It is notorious that an unusual course has been taken in this instance. It is usual for the chairman of a committee to bring up a draft report, and for that report to be discussed by the committee; but in this case two members, neither of whom was the chairman, have drawn up different portions of the report. It would be most unjust to refuse to allow the honorable member to refer fully to the report, especially as it became public property before it was brought down to this House.

The SPEAKER.—The rule is that no honorable member can fix upon any individual member of a committee as responsible for, or as the framer of, the committee's report. A deviation from this rule would not only be most unusual, but would lead to the greatest possible disorder.

Mr. STUTT.—I intended to have referred to the point which has been mentioned by the honorable member for Collingwood (Mr. Vale). I think it is an unusual course, and I have been informed, by those who are better acquainted with the practice of Parliament than I am, that it is a very unusual course, and I have been informed, that the committee should appoint a member who is not the chairman, to frame the report. As a young member of this House I am not acquainted with the rules and practice of parliamentary committees; but I have been told that such a course is one that would not have been permitted in the House of Commons, namely, ignoring altogether the right of the chairman to do so. What inference can be drawn from that course having been adopted, except that this gentleman was appointed to the duty with the express view of slating me? The SPEAKER.—I must again call the honorable member to order.

Mr. STUTT.—Well, sir, that was the object of it. Although I am inexperienced with regard to the practice and etiquette of Parliament, it must be remembered that my character is at stake. This report has been spread all over the country, and the time has now arrived when I ought to be allowed the opportunity of retaliating on those who have furnished the press with garbled statements of what took place before the committee, and everything that would prove injurious to my character throughout the inquiry. It was stated the other evening, when I preferred a charge of breach of privilege in the publication of the report before it was laid upon the table, that the committee could not be expected to keep their report secret in the way that it ought to be, if the accused did not try to clear their own character of the very serious charges made against them. You then, sir, ruled very clearly, that it was a breach of privilege so to publish the report. But what has followed? As the report has been
published the ruling has been laughed at, although I believe the committee would be glad if the whole matter could now be quashed, and the proceedings put a stop to. I will even say that an attempt has been made to do so. It served their purpose, and they have got all they want now that the report has been published through the length and breadth of the colony. But, sir, before I sit down I shall show that the report contains base falsehoods—untruths—that there is evidence in this report that is untrue. Well, sir, why should that report be furnished to the press, and why should honorable members want to treat me as though I was food for the press? There has hardly been a morning during the last few months but some kind friend has said to me—"You are in the papers again"—in the Telegraph, that dirty rag! "When are you going to make yourself clean?" I have been asked. In fact, I do not seem to have had any fair play at all. I have been arraigned before a bar, and tried before the committee. Now, sir, I will not occupy the attention of the House on this point. I do not think it is worth while. Paragraphs 1, 2, and 3 of this report do not touch me at all. They refer to McNeill and McGregor. McNeill I never saw in my life until I saw him before the committee. I never addressed a letter to him, and never knew him. The framer of the report took great care with paragraph 4, which says:

"In September, 1868, Peter Mills, a tenant farmer, residing at Lagoon-farm, in the same county, came to Melbourne to give information at the Crown Lands department that McNeill was not a bond fide selector, and to claim his allotment. It is important to note that a certificate was presented to your committee from more than a hundred inhabitants of Belfast, bearing testimony to the respectability and probity of Mr. Mills, and stating that he had been connected with the district from childhood; and Mr. Stutt, when the case was first mentioned in Parliament, gave him a similar character."

But the framer of the report took good care, by cross-examination, to ask me—"Do you hold the same opinion now? I said "No; my opinion is considerably changed." But the framer of the report does not mention that. This is not worth dwelling on any further, and I pass on to paragraph 5, which is as follows:

"During one of his visits to the Crown Lands department, Mills met on the steps of the office a man who advised him to apply to Mr. Stutt, whom he described as having been useful to him under similar circumstances, and to whom he promised to recommend him. Mr. Stutt, as appears from other evidence, transacts business at the department.
the knowledge of this House, because by records in its possession it is shown that the honorable and learned member for Dalhousie did go there to assist his son.

The SPEAKER.—To defend himself against the offence charged to the honorable member for South Grant is one thing, but an attack by him upon a member of the committee is another thing, which is not necessarily essential to his defence. The honorable member for South Grant is, no doubt, in a very difficult position; but what I desire to point out is that he is not adopting a regular or wise course in making this attack.

Mr. STUTT.—Well, sir, I hope you will pardon me if I do trespass a little on the rules and practice of debate. Feeling, as I do, greatly disgusted, and suffering as I have done for some months past, I hope, too, that the House will pardon me if I transgress a little in this respect. I will now refer again to the 5th paragraph of the report. I was asking what right the committee had to inquire into my private transactions with Hadden, in money matters, when he was boarding at my establishment? These proceedings do not reflect much credit on the members of that committee, who sat and heard another member of this House attacked in this way. The framer of this report was aware of the position of poor Hadden; he knew that the Chief Secretary, the Minister of Railways, the honorable member for Normanby (Mr. T. Cope), as well as myself, all interested themselves on his behalf. It did not signify to the framer of the report what these gentlemen did for him; it did not suit his purpose to bring their names in in connexion with Hadden, but it did suit his purpose to bring my name in. Sir, I am not ashamed of my connexion with Hadden, nor of any transaction I have had with him. He appeared before the committee and gave evidence that will go very far to remove dishonour or anything reflecting upon me. Now, sir, I will pass on to paragraph 6, which says—

"Mills accordingly went to the City Buffet and saw Mr. Stutt, who accompanied him to the Crown Lands-office, where he lodged a declaration framed by Mr. Shuttleworth, Mr. Stutt's solicitor, with a view of obtaining McNeill's selection. Mr. Mills then prepared to return to Lagoon-farm, leaving his case in charge of Mr. Stutt."

Well, sir, I will show the House, by-and-by, that Mr. Shuttleworth was not my solicitor on this occasion, as the framer of the report would lead honorable members to believe by the ingenious manner in which it is put in. If the framer of the report had wanted to deal fairly in the matter he would have said that Mr. Shuttleworth was the solicitor of Mr. Mills. He does not say "on that particular case." I will give him credit for that. However, I will presently show that Mr. Shuttleworth was employed by Mr. Mills and paid by Mr. Mills; and if that be so, why should the framer of the report try to deceive the House by saying that he was my solicitor? No doubt he had been my solicitor for seven years, but he was employed and paid on that occasion by Mills. With reference to the last sentence of the paragraph, when Mills lodged the declaration at the Crown Lands department, he desired to know when it was likely that the land would be open for selection. Mr. Morrah told him that it might be a month. Mills said—"Well, then, how am I to know when I am to come down to town again?" and Mr. Morrah said—"You must get some friend to let you know, or you must be satisfied with seeing it in the Gazette." Mills then said—"My house is sixteen miles from Belfast." I then volunteered to act for him rather than that Mills should have to stay in town for a month; and I said—"Mr. Morrah, if you will let me know, I will acquaint Mr. Mills when the land will be open for selection, and we can let him go home." The next thing I heard of Mills was when Mr. Morrah told me that he (Mills) was going to be prosecuted for perjury. Instead of letting Mills know that the land would be open for selection, I called upon his solicitor—not my solicitor—Mr. Shuttleworth, and told him that he ought to write and let the man know the exact position of things, and that the papers had been handed over to the Crown Solicitor. Upon that Mr. Shuttleworth, Mills's solicitor, wrote to him, told him the circumstances, and recommended him to come to town at once. Mills came up to town, and when he arrived he called upon me again, and I told him what I had heard. Now, sir, that is what the framer of the report put down as leaving his case in the charge of Mr. Stutt. That is all the charge I had of it; simply doing an act of kindness to the poor man. I have done the same thing on many other occasions; on more than fifty occasions since I have been a
member of this House. I now pass on to paragraph 7, which says——

"Before leaving town, however, some time in November, 1868, Mills alleges that he offered £100 to Mr. Stutt for his trouble, in case he succeeded in procuring him the land; that Mr. Stutt said— 'That would do'—"

And a very nice answer too.

"and that they proceeded to the private residence of Mr. Shuttleworth, Mr. Stutt's solicitor"—

"Mr. Stutt's solicitor" again.

"for the purpose of having the agreement reduced to writing; that Mr. Shuttleworth not being at home, Mr. Stutt procured pen, ink and paper, and drew up a document embodying the agreement, which Mills signed, the money being made payable to Mr. Shuttleworth, at Mr. Stutt's suggestion that it would not do to have the agreement drawn in his own name; that they afterwards found Mr. Shuttleworth at his office, and that Mr. Stutt handed him this document."

Now, sir, upon the face of this I would appeal to any sensible and reasonable man whether it does not bear a lie? Is it probable that I should leave my own room and authorize a person to get a cab for the purpose of going to the private residence of a solicitor, and get pen, ink and paper, to draw out a legal document, and afterwards repair to the solicitor's office and hand the document over to him? I do not believe that there is a single honorable member of this House who will believe such a statement. However, I will not leave the statement here, but I will show by evidence that no such conclusion could be arrived at by any class of men. I will now pass to paragraph 10, and, comparing it with paragraph 7, I will show honorable members that the two mean pretty much the same thing——

"Mills further alleges that, shortly after his return home, he was recalled to town by Mr. Stutt, who told him there were counter declarations from McNeill, contradicting every word he had said. That Mills thereupon had fresh declarations prepared in support of his original case, which he lodged at the Crown Lands office; that Mr. Stutt, who accompanied him upon this occasion also"——

Now I will show, both by evidence and fact, that this is untrue.

"had an interview on his affair with Mr. Grant, the President of the Board of Land and Works, in the presence of Mr. Frazer,"—

I don't see what Mr. Frazer's name is wanted for here.

"a member of your honorable House, the result of which he went away without communicating to Mills. That Mills was afterwards called in before Mr. Grant. Mr. Frazer still remaining in the room, when Mr. Grant asked him would he withdraw his declaration, as McNeill was going to prosecute him for perjury. To which Mills replied"

Mr. Stutt.

that he had been down (in town) so often, and at such a loss of time and expense, that he was determined to persist, whatever the cost might be."

Now, sir, it is a most extraordinary thing that, on the 22nd of October, 1868—that was the day that Mills lodged the declaration framed by his solicitor, Mr. Shuttleworth—that declaration was prepared by Mr. Shuttleworth, and, if honorable members will follow me, they will see that the framer of this report would lead them to believe that there was another declaration prepared, and that I attended with him with that declaration also. Now what is the fact? There is no need to turn up the correspondence on the subject, because there it is as plain as a pikestaff. The last declaration of Mills was the one dated October 22. Where, then, did the other one go to? There is no evidence to show that Mr. Shuttleworth had another or that Mills had it; so either it never was in existence, or there is the presumption that it was destroyed in the department. How, therefore, could I accompany him with another declaration? The thing is impossible. The statements are so contrary to fact that, when I saw the report, no wonder I should endeavour to bring it before the House, and contradict the statements contained in it. I will now go to paragraph 11, which is as follows——

"That having returned to Lagoon-farm, he was again recalled to town by Mr. Stutt, in December last. That Mr. Stutt then told him that, if he had been up sooner, he would have secured him £100 from the opposite party for withdrawing from the case. Mr. Stutt totally denied this conversation."

Now as to the date of his being recalled, he was only recalled once, and therefore what does the framer of the report mean by "again recalled"? He was recalled by Mr. Shuttleworth, his own solicitor, in December. I never saw Mills after the interview in October, until he came down in December. I have had no other interview with him, although this report would appear to show that I had been mixed up with him and was going to the Lands department with him. I did not see him again until some few days before the holidays, say about the 23rd of December; and yet it is alleged that this contract was entered into. The framer of the report wants to make the House believe that it was entered into on the first occasion. Well, I say that it is wrong, and I will prove it to be so by the evidence of Mills and his father-in-law. I will show that there was not one word.
spoken about compensation until he came down, when he was under the threat and fear of being punished for perjury. I think this statement, therefore, might be allowed to go for nothing. Is it likely that I would enter into a contract for £100 with a man who must, as far as I knew, appear at the bar as a criminal? I will now come to the very pith of the point. I admit that a conversation took place about £100; but I hope the House will bear in mind the fact that Mills was anxious to get away to Belfast. This was on the second occasion when he came down. He had left home in a hurry, and he wanted to get the opinion of counsel with reference to the prosecution that was likely to overtake him. Mills desired that I should see Mr. Shuttleworth for him, as it was late in the afternoon, and the boat was leaving in about an hour. He asked me to see Mr. Shuttleworth for him and tell him that he desired him to prepare a case for the opinion of counsel. I declined to undertake any such responsibility. I said I would not be a party to instructing any lawyer in a case of the sort, and that he would have to see his solicitor for himself. Mills said it was after office hours, and that he did not know where Mr. Shuttleworth lived. I said—"Rather than I would have anything to do with it myself, if you will bring a cab to the door I will take you to his house in a few minutes." When we were on our way to Collingwood in the cab, Mills said that he would place £100 or £200, or all that he had in the world, upon the land. When we arrived at the solicitor's house I got down from the cab; Mrs. Shuttleworth answered the door, and told me that Mr. Shuttleworth had left word that he would not be home early, but that I should find him at the office. This is the time the alleged contract was entered into—when I took Mills to the private residence of Mr. Shuttleworth and drew up this legal document. I do not think it is worth while dwelling much longer on that subject. He alleges that we went to the solicitor's office after going to his private house, and that there, in his presence, I handed over the document with reference to the £100 agreement. Now the evidence goes to show that no such document existed, and therefore he never had it. I never saw it. And, sir, the evidence of Mr. Shuttleworth, a gentleman well known by a great many in town as a professional man who has practised in this city for something like 12 or 15 years—and during that time he ought to be pretty well known as a gentleman whom nobody would charge with making an untrue statement—is to the same effect. It would take some time to get at the evidence that would contradict the statement, and, therefore, I will pass on. The time referred to in paragraph 11 as the time when he was "again recalled" was the time when Mills was summoned up by his solicitor, and not by me, as the report states, to appear before the court; and it is alleged here that I told him that, if he had been up sooner, I would have secured him £100 from the opposite party for withdrawing from the case. I denied that before the committee, and I deny it now. Of course I have no witnesses to prove the contrary. All I can say is that there is only his bare word against mine, and there is my bare word against his; but I repeat that positively no such thing occurred. Paragraph 12 says:—

"Mills further alleges that Mr. Stutt represented to him that the declaration he had made against McNeill, as a dummy, might be punished by three or five years' imprisonment or the loss of his property, and advised him to withdraw it. That Mills finally consented to write a letter to the President of the Board of Land and Works withdrawing the declaration, on condition that the letter was not presented before he had an opportunity of consulting his family. That a letter was consequently written at the City Buffet, addressed to Mr. Stutt, which declared that, after mature consideration and having consulted with his friends, he wished to withdraw his declaration, and requested Mr. Stutt personally to intercede with Mr. Grant to allow him to do so."

Well, sir, I had no need to hold out any threat or to influence Mills to withdraw his declaration. The evidence will show that Mills did not need to be threatened by me, for he was just as much frightened as any man need be. He was very desirous of withdrawing it, because he said he was afraid he could not depend upon the men who had promised to support him. Therefore, the statement made in this clause is not true. I held out no threat at all, and I had no interest in doing so. My only interest was to benefit him, and to save him from being harmed by the prosecution that he was liable to. The report (paragraph 13) then goes on to say—

"That this letter was written by a supernumerary clerk in the Crown Lands-office, named Elisha Smith, a relative of Mr. Stutt, who was placed in the public employment by his influence, and who, as was ascertained on cross-examination, had been engaged in drawing up documents at the City
Buffet, to be presented to the Crown Lands department in former cases. After this letter was deposited with Mr. Stutt, Mills returned to Lagoon-farm, which he reached on Christmas Day. He states that his wife and father-in-law strongly objected to his withdrawing the declaration against McNeill, and that on the 27th or 28th of December he wrote a note to Mr. Stutt, desiring him not to present to the Crown Lands department the letter written at the City Buffet. With respect to this letter, written from Lagoon-farm, Mills is contented by his father-in-law Rev. R. Aldworth, who saw it before it was despatched. Mills also states that he wrote shortly afterwards to Mr. Shuttleworth, desiring him to go on with the case against McNeill as a dummy. Mr. Stutt, on the contrary, affirms that the letter from Lagoon-farm, instead of forbidding him to present the one previously written at the City Buffet, authorized him to do so, and that it was in pursuance of this authority and 'on receipt of it' that he had the letter document lodged and registered. Mr. Shuttleworth also states that the only letter he saw from Mills was one declaring that if he were put in prison it would be ruination to him, and that therefore he would withdraw from the case.

Now the statement that Mr. Smith was placed in the Lands department by my influence I positively deny. Mr. Smith has been in the Lands-office about six years; but six years ago I never thought I should ever have to defend myself, on the floor of this House, from such charges as these. It is well known that I have not been a member of this House three years. I don't deny that there is a relationship between Mr. Smith and myself. I am not ashamed of it; nor is he. Mr. Smith held a very good position in this country once, and he also held an equally good position at home, where he was highly respected. The relationship is this—Mr. Smith is married to my wife's cousin. I don't know that they are first cousins. The fact is that Mrs. Smith's father and Mrs. Stutt's father were half-brothers. And yet the Daily Telegraph stated, the other day, that Mr. Smith was my brother-in-law. The framer of the report took care that the fact of a relationship existing should be made known to the world; but I have no desire to intrude statements as to my family connexions upon the House. The letter in which Mills declared that he would be ruined was the letter asking me to get the declaration, which he wrote on his return home, and which I was to have received about the 28th December. Both Mr. Shuttleworth and Mr. Grant saw that letter. I showed it to Mr. Grant at the Lands-office. But the report (paragraph 14) states—

"On this conflicting evidence your committee have to remark that Mr. Stutt did not produce the letter written from Lagoon-farm; that, assuming it was posted on the 28th of December, and received in due course, Mr. Stutt did not, as he declared, act on receipt of it, inasmuch as it was not till the 16th of January he lodged the letter written at the City Buffet. And nearly a week after the date at which the letter from Lagoon-farm would have come to hand in Melbourne, Mr. Shuttleworth wrote to Mills a letter, in which, so far from assuming that he had already withdrawn from the case, he endeavoured to induce him to withdraw under a threat of prosecution for perjury. Your committee think this the usual character of a communication from an attorney to his client, but because the letter which it enclosed for Mills's signature was entirely unnecessary, if Mills had, as alleged, already authorized the use of the letter to the same effect, written at the City Buffet. Mills did not answer this letter, and on the 27th of the same month Mr. Stutt wrote to him that he must 'take no further proceedings in the matter, as this alone would get him committed to prison,' and advising him rather to look for some other piece of land, of a similar character, in the district."
I must say that he is one of the last whom I have had an attack upon my character; and there is not the least
deal of feeling in it. This is not the first time that I have expended upon it; but I am not the only witness.
The report has evidently been drawn up with the testimony of all the other witnesses. The argument has been taken
by the committee in directing the striking of certain evidence from the shorthand writer's notes. In the minutes
of the committee's proceedings for the 13th August, this passage appears:

"Mr. Stutt was called in and informed by the chairman, in answer to his letter regarding certain evidence struck out from the shorthand writer's notes, that the committee would summon Mr. Ross for the purpose of permitting Mr. Stutt to examine him, reserving to themselves 'the right to stop the examination.' A member of the committee asked Mr. Ross what led to his removal from the service he was in in England? Mr. Ross declined to answer. The committee-room was cleared, and, after deliberation, the inquiry was allowed to proceed without reference to Mr. Ross's antecedents. I believe that Mr. Ross concocted all this affair—that he was a man who gave such evidence as Mr. Ross did was a pure invention on Mr. Ross's part. I say that the character of a man who gave such evidence as Mr. Ross did was a fair subject for the committee to inquire into. I have to complain of the resolutions arrived at by the committee. On the formation of the committee, before they entered upon their duties, they determined upon giving carte blanche to the witnesses who might come before them to make what statements they liked. They agreed to this resolution—

"That this committee will request the House to declare that it will not institute proceedings of any kind against any person, not being a member of the Legislature, based upon the evidence taken by this committee."

And the resolution was read to the first witness before he was examined. But I submit that the committee ought to have kept the witnesses in ignorance of the fact that they had passed any such resolution.
I will now refer to the evidence. The 5th paragraph of the report states that Hadden recommended Mills to apply to Mr. Stutt. Now all the evidence extracted from Hadden to warrant that statement was as follows:—

"He (Mills) asked me who it was along with me at the Lands-office, and I told him who it was; and he said did I think he would do anything for him, and I said I could not say.

"Did he speak to you or to him first?—He spoke to me.

"What did you say then?—Oh, I said, 'the best thing he could do would be to go where Mr. Stutt lived, and see him.'"

There is nothing in Hadden's evidence to show that he recommended Mills to Mr. Stutt, although he was closely questioned on that point by the committee. I may mention that nine questions, all of the same purport, were put to that witness, at different times, in order to confuse the poor man. But Hadden stood firm; he was not to be goaded into making a false statement. I refer to this to show how one-sided the report is. Then, again, the 6th paragraph of the report refers to Mr. Shuttleworth as Mr. Stutt's solicitor, but he was Mills's solicitor, as is shown by the following evidence, given by Mr. Shuttleworth:—

"Do you remember if Mr. Stutt and Mr. Mills ever came to your office?—Yes.

"Will you state what took place when they came?—The first time they came was, I think, 29th October. To the best of my remembrance, I acted as his solicitor.

"Whose solicitor?—As Mills's—at least I prepared a declaration for him."

"You say Mr. Stutt is your client?—Mr. Stutt has been my client for the last seven years; he brought Mills, as he has occasionally done with his constituents—as I suppose all Members of Parliament—and give a great deal of trouble—and he said 'Here is a declaration Mills has made, will you look at it, and see if it is correct.' I looked at the declaration, and it was one that nobody on earth could believe.

"Did you draw a declaration for Mr. Mills?—No, I did not.

"Did you do anything for Mr. Mills?—I gave instructions for a declaration to be drawn.

"Was a declaration drawn in consequence of those instructions of yours?—In consequence of my instructions, and the declaration handed me by Mr. Mills, another declaration was drawn.

"Did you charge Mr. Mills for drawing that declaration?—Yes.

"What did he pay you for that?—He brought out 7s. and said—'We know we must pay money for these things.' I said—'My fee is a guinea,' and he looked very much surprised and thunder-struck at it; but he paid me the guinea, I believe.

"Did Mr. Mills and Mr. Stutt ever come to your office on any other occasion than the one you have been speaking about?—Yes, they came on one occasion, and, I think, only on one occasion.

"On the second occasion was a document handed to you to the effect that Mr. Mills undertook to pay you £100, which you, or he, wished me to receive from the Lands department the lease of certain lands?—No, most decidedly not; I never saw or heard of such a document.

"Did you see any document undertaking, on behalf of Mr. Mills, to pay £100 to any person in connexion with obtaining lands from the department?—No document from Mr. Mills to any person to any such effect, in the broadest way you can put it; I never heard of or saw such a document.

"Did you ever see any document signed by Mr. Mills, undertaking to pay £100 for law expenses to yourself in case he succeeded?—Never.

"You absolutely deny any knowledge of such a document?—I deny it, and am prepared to deny it upon oath.

"Or did Mr. Stutt ever give you such a document?—Mr. Stutt never gave me such a document.

"Or did you ever hear of it?—I never heard of it; the last man in the world I should have thought of it coming from.

"Was any object of Mr. Mills and Mr. Stutt coming to your office the second time?—That would require a little explanation. I think the second time was just before Christmas. I believe either just before Christmas or just before New Year's day; just before the holidays Mr. Mills and Mr. Stutt came in in the afternoon.

"What time in the afternoon?—To the best of my remembrance about two or three o'clock. I think Mr. Mills said that he understood that they were going to prosecute him for perjury, and the question was, whether he should defend it or not; he said of course he was not guilty of perjury, and that he felt that his was a just case, and he had plenty of witnesses who would prove that it was so; and he asked me my opinion in a casual way, as I suppose Members of Parliament's constituents come to their attorneys and bother them to that extent. Of course I told him that if it was a just case he had better defend it, but he had better take counsel's opinion; and he said, he was going down to Belfast, where he lived, immediately, and there he thought he would see Mr. Wrixon there, and take his opinion; I said he could not possibly do better."

I do not wish to weary the House with extracts from the evidence. I have been at the pains of collecting the evidence relating to each paragraph of the report; and I will leave it on the table for the inspection of honorable members, who will see that the report is not borne out by the evidence. But I wish to call attention to further evidence bearing on the allegation contained in the 7th paragraph of the report, that there was an agreement that Mills should pay me £100 for my trouble. Mills stated, in the course of his examination—

"What transpired when you were speaking about compensation?—He said he did not mind devoting such time, but he would have to pay the expense of a cab up and down, and the expenses connected with the business, and I agreed to do so.
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"Did that apply to anything more?—Yes; if he secured me the lease of the land, for his trouble I would give him £100."

I beg the House to recollect that this was about the time when it seemed likely that Mills would be brought before the Supreme Court on a charge of perjury; and I ask whether it is probable that I should have entered into such an agreement with a man so circumstanced? Further on, this evidence is given—

"Did you see what Mr. Stutt did with this promissory note you gave him?—It was handed to Mr. Shuttleworth."

"Is your presence?—Yes; we went away down to his office and gave it him."

"Who gave him the promissory note?—Mr. Stutt."

"You were present?—Yes."

"And saw him hand it?—Yes."

"Did anything else transpire at Mr. Shuttleworth's office?—No, nothing else then."

Now in order that the House may be able to form some notion of this man's character, I will quote what he says with regard to Mr. Frazer—

"Whom did you see at the Lands-office the next morning, when you were there with Mr. Stutt?—Mr. Frazer or Mr. Davies, I would not be positive which."

"Was he a tall gentleman or otherwise?—A low-set stout man."

"Was it the first time you had seen Mr. Frazer?—I do not know whether it was Mr. Frazer; it was the first time I saw him in my life."

"Was he a very fat man?—Yes, a very corpulent man."

"Did Mr. Stutt and this stout person go in and see Mr. Grant?—Yes; and this gentleman was in. This gentleman was in before Mr. Stutt went in."

"Mr. Frazer was in with Mr. Grant?—Yes."

A minute before the witness said he did not know Mr. Frazer; but he was wheedled on until the "low-set stout man" became "a very corpulent man," and at last turned out to be Mr. Frazer. Now on this subject, I desire to call attention to the evidence of Edward White, a man who comes from the same district as Mills. The following questions were put by me to White, through the chairman:

"Do you remember seeing him" (Mills) "at the Lands-office?—Yes."

"How long was that since?—In December, 1868; the first time I saw him"

"Do you remember seeing me with him? —Yes."

"Where was that?—First where I saw Mills and you was at the City Buffet, and afterwards we three went up to the Crown Lands-office."

"Did you understand what the business was at the Crown Lands-office with Peter Mills?—Yes."

"What was it?—It was after some land he was going to get, and he wanted an interview with Mr. Grant, and you promised him to go and get him an interview with Mr. Grant."

"You and he stood outside while I went in to see Mr. Grant?—Yes."

"What did I say on my return?—You said Mr. Grant would not see him."

"Did I say anything further?—You said the only way he could do was to send a letter in to him, and he would consider his case."

"You were a good deal in Mr. Mills's company, were not you, when you were in town?—Yes."

"Being from the same neighbourhood?—Yes."

"Did he ever tell you that he was giving any compensation to a solicitor or any other person—Member of Parliament or any one?—Never."

"Not if he got the land?—No."

The frame of the report complains, in one part, that I did not explain to the committee the transaction about the £100. He says—

"Mr. Stutt, in his written statement at the close of the case, and on the cross-examination arising out of it, failed to explain to your committee in any intelligible manner how it happened that, having proposed to Mr. Mills to go to Fitzroy or Collingwood to see the attorney before writing any such document as the one regarding the £100, he omitted, after having found the attorney, to say anything whatever to him concerning the professed object of his visit."

If honorable members will look at the written statement which I handed to the committee, and at the evidence I gave on cross-examination, I think it must appear to them very strange that any gentleman could frame such a report as this. I will read a few extracts from my evidence after the written statement was submitted to the committee.

"Now, having heard these questions read, I have to repeat the question put previously—There are certain matters disclosed in the questions 991 to 1018 put by yourself to the witness Mills—you have not in your written statement referred to these matters, and the committee desire to know whether you are prepared now and orally to offer any explanation in reference to them?—I think, Mr. Chairman, that I was under the impression that I had in the written statement, and think I have; but, however, there is nothing but what I am prepared, now see the question there is nothing at all in it but what I am prepared, to state now without reference to anything—either the written statement or any other. That Mr. Mills was going away in the evening to Belfast or Warrnambool. That Mr. Mills desired that he should put me in possession of a document, not having money, as a guarantee to a solicitor to defend the action that he believed to be then pending."

"I do not think that there was any harm in a man who was desirous of getting away from town making such a proposal. It was not at all unreasonable for Mills to suppose that it would be necessary for him to give a guarantee to a man who would undertake to look after the action then pending, and thereby save him the trouble and expense of stopping a week in town. It was but reasonable for Mills to suppose that he should give any person who would take the trouble to go and tell the solicitor
to prepare a case for the opinion of counsel; a guarantee that the costs would be paid—that the person undertaking the work would not have to pay the costs himself. Out of that arose the conversation about the £100. Mills was desirous of getting away to Belfast by the boat leaving that afternoon. I consider myself rather flattered that he had so much confidence in me that he desired to give me £100—or a guarantee for it at least—to be handed over to the solicitor as the occasion might require. In continuing my evidence I stated that—

"I declined to take any such document from Mr. Mills, or to be a party in instructing a solicitor on his behalf; I told him, rather than do that, I would go with him to the solicitor's house. On our way, while in the cab, to the solicitor's place, Mr. Mills stated that he would spend the last family fortune he had, whether it would be spent in the world, or get the land; and on arriving at the solicitor's house, the solicitor had not come home; if my memory serves me right Mr. Mills never got out of the cab at all. I merely asked Mrs. Shuttleworth, who answered the door, if Mr. Shuttleworth had returned home. After inquiry after the family and Mrs. Shuttleworth, I went into the cab, and wrote the cab went to his office. Mr. Shuttleworth was there—was on his feet for leaving the office and going home. Whether Mr. Mills or I told him the nature of our visit I could not positively state; however, Mr. Mills told him that he was leaving by the boat that evening, which would be in about half an hour after that time, and that he desired him to make out a statement for the opinion of counsel, Mr. Wrixon, who was then at Belfast. Mr. Shuttleworth told him that it would take, I could not positively say now whether half a day or a day, that it would take any half a day or a day to make out such a statement or case for counsel, but told Mr. Mills that he could go down to Belfast; that he would see Mr. Wrixon there, and he would tell Mr. Wrixon; being ask for the circumstances of the case; and that if Mr. Wrixon or Mr. Mills wrote back to him that he would prepare a case for counsel, for the counsel's opinion. I may state now that here this will account for Mills not being called upon to either produce a document or money as a guarantee for the law expenses; that Mr. Shuttleworth never intimated that he wanted any such document; and Mr. Shuttleworth neither asked him for money or any document; that Mr. Shuttleworth said that when he went down to see Mr. Wrixon, that if Mr. Wrixon advised him to go on with the case, either he would see Mr. Shuttleworth, or he would prepare a statement for the opinion of counsel. I say that this will account, sir, for nothing being said to Mr. Shuttleworth; nothing was said to Mr. Shuttleworth; no such document was in existence; no such document was asked for; there the matter ended. Mr. Mills went off to Belfast, and there was nothing said about it. If that is not sufficient, if I am not clearly understood by the committee, I shall be glad to make any further statement you may think proper; but I think that is told in my written statement, though I have gone over pretty much the same thing, and am satisfied in my own mind that you will find that part of the evidence, as clearly as it can be laid down, dealt with. However, in order to show you that I do not want to be disagreeable in the matter. I have run over it to-day; I am satisfied it is as pretty well done in the written statement; and the gentlemen who desire to put these questions again only do so that they may entrap me if possible."

The last remark being objected to, I said that, if it was in any way offensive, I would withdraw it. The reason why I made use of the expression was because, after having submitted a lengthy document dealing with the whole case, a certain member of the committee insinuated that it was written in too much of a Roman hand to be my own production, and he desired to trot me over the statement in order that he might entrap me. He found, however, that I was perfectly well up in the document, that there was nothing in it with which I was not perfectly conversant, and which I could not say without any written statement at all. In another part of my evidence the following questions and answers occur:

"Mr. Stutt, there are some questions arising out of your cross-examination of Mr. Mills here that I should like to ask you; do you object to answer them?—Aising out of my cross-examination or out of the cross-examination of Mr. Mills?

"Yes?—I have not the slightest objection."

"I should like to ask you did you go with Mills to Mr. Shuttleworth's private house?—Yes.

"And on the way there had you a conversation about £100?—Yes.

"Did you draw out or write then any document?—No, sir, never. However, I have clearly shown in the written statement the reason why it is unreasonable to suppose I would do such a thing going to a solicitor, that I, a layman, should write out a document for a solicitor, in going to his place; upon the very face of it is an untruth.

"Did you agree that that £100 should be paid by Mills to yourself or Mr. Shuttleworth?—No.

"In question 997 you say this—Was not that £100 that was spoken about in the cab going to Mr. Shuttleworth's house—not that be given to Mr. Shuttleworth, or any other solicitor that would take up the case?—That was in cross-examining Mills with regard to his saying that the £100 was for me; that Mr. Mills said he was prepared to spend £100, or all he was worth in the world, to get the land, that I admit he said; but for me to pretend that I intended to give instructions to a solicitor that Mr. Mills was prepared to pay any sum of money, either £100 or any other sum—he said £200 at another time—I would not be responsible for it. I would not give a solicitor any instructions with regard to costs. I positively state to the committee that no such document was ever in existence, and that no such document was ever written by me nor ever handed to Mr. Shuttleworth."

I think that this statement is clear enough. I do not know how I could state the case clearer, notwithstanding what has been
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said by the framer of the report. My evidence thus proceeded:

"But from this question it might be gathered that there was an agreement that £100 should be paid—I admit, I admit that, though I think that, if cross-examining the man, I really thought I might bring him to the truth that a conversation took place between him and me in the cab going up to the lawyer's, and before we went to the lawyer's, that is the reason I went to the lawyer, when he wanted me, knowing that he must go off to the boat, to write a statement; I called it, first, or any document I liked, that would satisfy the lawyer that the costs would be paid. I want the committee to understand this perfectly clearly, and I said—'No; I will have nothing to do with instructing a lawyer; you must see him for yourself.' It was after office hours he said—and rather than have anything to do with instructing a lawyer, if you would have the cab to the door I will go with you.'

This was clearly the fact. When we went to the solicitor's house, I have already said, if my memory serves me right. Mills never got out of the cab, that is where he says the document was written. Is it reasonable to suppose that I should sit down in a solicitor's house when Mrs. Shuttleworth said—'You will find Mr. Shuttleworth yet at the office,' that I would sit down in his house to write a document to be handed over to the solicitor for £100? The thing is really ridiculous.

"Though it might be unreasonable that you would write out a document for £100 if the £100 was to be handed over to the solicitor, would it be unreasonable for you to write such a document if the £100 was to be handed over to yourself?—I say both are false.

"I ask would it be ridiculous on that hypothesis?—It would be.

"Though you were going to get the £100 yourself?—I would not accept that or any sum.

"Would it take away the ridiculous character you attribute to the transaction, if that £100, instead of being intended for Mr. Shuttleworth, was intended for yourself?—Well, it would be a matter of opinion. To me it would be ridiculous, because I would not accept any such sum—never accepted any such sum—never wrote any such document—never had anything to do with it.

"Will you explain to the committee how you came to consider that £100 would be necessary to pay law costs in securing the success of an application for a selection under the Land Act?—I never considered anything about it; it was Mr. Mills's proposition, not mine; it is ridiculous.

"When you saw Mr. Shuttleworth at that time with Mr. Mills, did Mr. Mills make a proposition to Mr. Shuttleworth regarding the expenses?—Not a word; not one word about it, for Mr. Shuttleworth never asked for anything of the sort; but I may explain why Mr. Mills considered this: he did not think a lawyer would take up a case without being instructed by somebody.

"But after Mr. Mills suggested that the £100 would be forthcoming to you, and yet found to see Mr. Shuttleworth on the same ground, is it not likely that Mr. Mills would say something to Mr. Shuttleworth?—He did, in this way: he said to Mr. Shuttleworth that he would spend all he was worth in the world or get the land; but there was never a document asked for by Mr. Shuttleworth, there was never any security asked for by Mr. Shuttleworth, consequently Mr. Mills was very glad to get away without having to do what he was prepared to do to me; he was not the party to inquire whether Mr. Shuttleworth—when Mr. Shuttleworth stated he was prepared to go on with the case without any guarantee at all—Mr. Mills would be foolish indeed if he made any proposal of the sort.

"The reason Mr. Mills made the proposal to me was that he was afraid, not being known in Melbourne, no lawyer would take up a case without a guarantee of costs."

If honorable members look at the evidence they will find that the same questions were put to me over and over again, with the view of either entrapping me or annoying me. Some of the questions were of such a character that nothing but the high state of civilization we have got to keep me from committing a breach of the peace. The gentleman who put those questions would not have dared to do so but for the position he occupied.

The SPEAKER.—The honorable gentleman is not in order in attacking a member of the committee.

Mr. STUTT.—I did not mention any names, but honorable members know whom I mean. In reply to one question I remarked—

"I have already stated what I said, Mr. Chairman. I think this too bad. I have put in a written statement I think sufficiently long to satisfy the committee; and for Mr. Duffy to ask me the same question over three or four times, I shall be obliged to call for the protection of the chair. I am not here to be hauled about as a criminal before a court of justice; I come here in the position of a gentleman.

I do not desire any member of the House ever to be placed in such a position as I was placed in before that committee. I hope it will be the last parliamentary committee of the kind. If there are any charges against Members of Parliament, let them be preferred before the judges of the land, and investigated in a proper way. I trust that the House will pardon me for occupying its time so long. In the press I have already been tried, found guilty, and sentenced to be expelled the House. I hope, however, that the House will deal justice towards me. I want nothing more. I think that the evidence is sufficient to show that my transactions have been perfectly honest. I never did anything since I have been a member of the House; nor, indeed, in my life, that I am afraid should be made known. Since this inquiry was commenced I have suffered more than honorable members are aware of. It may appear a matter of little moment to members who are not interested in the result of this inquiry; but to me, with an aged parent still living, and other relatives who
may have seen the statements which have been published from time to time, I say it is very hard indeed to have had charges of this nature brought against me—to have been under the heavy lash of the press—and kept in suspense for six months, waiting for an opportunity of making the explanation which I have made tonight. I ask honorable members if the evidence discloses anything against me? Rather than again submit to be cross-examined in the way I was, I would resign my seat fifty times over. I would say to any member—"Rather than submit to appear before a parliamentary committee like the one I have had to appear before, for God’s sake resign your seat, and go and do something else.” I never was subjected to such indignity before. Nothing but the fear of disgracing myself restrained me from resenting the indignity in a very decided way. Questions were put to me in a most scurrilous manner, as much as to say—"I have you now.” That is the way I was treated before a parliamentary committee appointed by this House. I do not wish to cast reflection upon all the members of the committee, because certain members of the committee treated me in a most proper manner, and I know it was done in a most proper manner, and I know it was not drawn up by the chairman of the committee, but by a private member; and he used language intended to create the conviction that two private members—the honorable and learned member for the Ovens and myself—snatched at the opportunity of performing this particular work.

Mr. Stutt then withdrew from the Chamber.

Mr. DUFFY. Mr. Speaker, as the author of the report now under consideration, I desire at this stage to say two words. The House will have observed that, regarding the painful position in which the honorable member for South Grant (Mr. Stutt) was placed, I never interposed a sentence of interruption or contradiction, however extravagant his statements might be; but, as a general debate is certain to ensue when a motion is made in reference to the report, I think it is desirable to clear away one or two misapprehensions or misstatements of the honorable member, in order that they may not be repeated over and over again. In the first place, the honorable member called attention to the fact that, contrary to parliamentary practice, this report was not drawn up by the chairman of the committee, but by a private member; and he used language intended to create the conviction that two private members—the honorable and learned member for the Ovens and myself—snatched at the opportunity of performing this particular work.

Mr. HIGINBOTHAM. I rise to order. I desire to ask whether it is in order for an honorable member to address the House when there is no motion before it?

Mr. McKEAN. I apprehend that the honorable and learned member has a right, by leave of the House, to make a personal explanation at this stage of the proceedings.

The SPEAKER. I understand the honorable and learned member to be correcting some error in regard to the proceedings of the committee, in which he is personally concerned. If so, he is perfectly in order.

Mr. HIGINBOTHAM. If I did not know the honorable and learned member was making a personal explanation, or I should not have interrupted him. I understood he was going to address himself in reply to the observations of the honorable member for South Grant (Mr. Stutt), while there was no motion before the House.
Mr. DUFFY.—The honorable and learned member is under a misapprehension. I desire to address myself to the general question after debate has commenced, but at present I simply wish to set right some misstatements, and thereby save the time of the House.

Mr. VALE.—I submit that the honorable and learned member has no right to make a general speech in advance of the regular debate.

Mr. DUFFY.—I desire strictly to confine myself to a personal explanation of matters imputed to me individually.

Mr. WRIXON.—If ever the forbearance of the House is called for, it certainly seems to me that it is so on this occasion, because I well recollect that, when the honorable and learned member for Dalhousie was first proposed as a member of the committee, he objected to act upon it. He was forced upon the committee by the active determination of honorable members who are now sitting on this side of the House. Bearing that in mind, and remembering that his conduct has been very severely reflected upon by the honorable member for South Grant (Mr. Stutt), I think that, when the honorable and learned member for Dalhousie desires to make a statement, in the nature of a personal explanation, the utmost latitude should be allowed him.

Mr. DUFFY.—I was addressing myself to the statement of the honorable member whose conduct is impugned, that this report was the volunteered production of two private members. I desire to call the attention of the House to the facts, in order that the real state of the case may not be misapprehended. The chairman of the committee, the honorable member for South Grant (Mr. Lalor), was invited over and over again, by myself, among others, to perform the duty of reporting upon this case. He stated that his conviction was that the committee ought to arrive at certain resolutions as the basis of their report. I showed him that the practice of the House of Commons was different, and I undertook to bring him a copy of a report arrived at by a committee of the House of Commons upon a kindred inquiry. The chairman did not undertake the task of preparing the report, and it was after eight meetings of the committee, from which he was absent, that last the committee arrived at the resolution inviting the honorable and learned member for South Bourke, the honorable and learned member for the Ovens, and myself, to prepare draft reports. I performed my share of that duty; the honorable and learned member for the Ovens performed his; but, for reasons which no doubt he will state to the committee, the honorable and learned member for South Bourke did not perform the task intrusted to him, and which he accepted. Surely I need not urge upon the House that, having first performed to the best of my ability the task imposed upon me by the House, and then the task imposed upon me by the committee, which fell properly to the chairman, but which he would not perform, I have not done anything of which the House has any reason to complain. In the next place, the honorable member whose conduct is the subject of inquiry treated this report throughout as if I were alone responsible for it. I desire to call the attention of the House to the fact that the committee consists of twelve members, that there were nine of them present when the report was adopted, and that it was unanimously adopted. Some particular sentences in it—one or two—were made the subject of motion and division; but all the paragraphs, except two, were adopted unanimously. At the meeting at which they were adopted, Mr. Lalor, Mr. Grant, Mr. Longmore, Captain Mac Mahon, Mr. Everard, and myself were present. Under those circumstances, I need not say that the report with which we are now dealing is the report of the committee in as full a sense as any report ever emanated from any committee. The honorable member further complained, as if he meant to throw some imputation upon me, that during the entire inquiry, whatever transpired at the committee was immediately communicated to the newspapers. Undoubtedly that is true—true to a certain extent. I remember this curious circumstance. One day, after the committee rose, I was walking with the honorable and learned member for the Ovens to the railway station, and we were met on the way by boys selling the Herald—then one of the organs of the Government of the day—which actually contained a report of the proceedings of the committee at the meeting which had just terminated. This showed that some members, sitting at the committee table, must have sent out a written communication for the press. The honorable member, therefore, is quite correct when he says that evidence was communicated to the newspapers; but, as
The honorable member also said that Elisha Smith was not a relative of his, but a cousin of his. What the family ties were was, of course, unknown to me. I had to deal with the evidence, and the evidence referred to in the margin of this portion of the report consists of three questions and answers, which I will read. Elisha Smith is the witness under examination, and this is his evidence:

"At whose recommendation did you get your appointment in the Crown Lands-office?—Mr. Lalor.

"Who recommended you to Mr. Lalor?—I believe Mr. Stutt recommended me to him."

The statement in the report is that on Mr. Stutt's recommendation he received his appointment. The next question is—"Are you connected with Mr. Stutt? and the reply is—"I am a relative of his."

Mr. FRAZER.—I rise to a point of order. I ask whether the honorable and learned member is not going beyond the bounds of a personal explanation? It is clear that he is entering upon a defence of the report of the committee.

The SPEAKER.—If I understand the honorable and learned member, the whole scope of his remarks is to relieve himself from a personal responsibility in connexion with the report which he conceives has been fastened upon him by the honorable member for South Grant (Mr. Stutt). It is difficult to say exactly at what point an honorable member trespasses beyond the limit of a personal explanation. I think the latter remarks of the honorable member go beyond it.

Mr. DUFFY.—To save trouble, I will leave the matter where it is.

Mr. McKEAN.—Mr. Speaker, I am sure honorable members will believe me when I say that I feel very much embarrassed in bringing before the House the subject matter of this report. I was not a member of the committee when the charges with which the report deals were inquired into, but was called upon, under peculiar circumstances, to bring up the report and move a resolution upon it. Honorable members will recollect the circumstances under which I became a member of the committee, and on two occasions occupied the position of temporary chairman, from which the duty of laying the report on the table of the House fell upon me. They will bear in mind that the duty and regularly constituted chairman of the committee declined to take any action in the matter, and hence the duty devolved upon...
Mr. Morrah, chief clerk in the Lands department, to this effect:—

Mr. Jeffery, storekeeper, on the occasion of a man named Cook being employed by Mr. Tobin to cut thistles in McNeill's selection, and asking for credit refused to supply him unless he had Tobin's guarantee that he would be paid. Tobin called upon the storekeeper to say that the man was working for him, and that he would see the storekeeper paid. That accordingly, whilst this man was so employed on McNeill's allotment, he gave him credit for goods which he went away without paying for, and that when he, Jeffery, applied to Tobin for payment of the amount due, £2, after some discussion Tobin squared the matter by paying 10s., at the same time remarking that Jeffery ought to remit the other half, 10s., as Cook went to the same chapel as himself.

It will be seen, from this report, that Mr. McNeill was virtually a dummy for Messrs. Butchart and Tobin; and this branch of the case I dwell upon particularly, because it has a material bearing upon subsequent proceedings in the matter. Now, sir, I draw the attention of honorable members to the declaration made by Mills in 1868, and they will see there clearly set out that this gentleman, McNeill, was a dummy on behalf of Butchart and Tobin. Mr. Mills, it has been said, is a person of indifferent character; but I shall be able to show that he was a gentleman in whom the committee could feel every confidence, seeing that he was well known to many persons in the neighbourhood in which he resided. He had resided in the neighbourhood of Belfast for many years, and had a testimonial presented to him by the principal inhabitants. This the honorable member for South Grant (Mr. Stutt) admits. The testimonial is in this form:—

"We, the undersigned justices of the peace, householders, farmers, and others, resident in the Belfast district, hereby bear our testimony to the respectable and good character of Mr. Peter Mills, of Lagoon-farm, and to his having been connected with this district from childhood."

It is signed by two justices of the peace, and about 100 other names are appended to the document, at the foot of which there is the following:—

"The foregoing signatures are those of the leading men in the district, who have been acquainted with Mills for over fifteen years."

If anything else were wanting on this point, what the honorable member for South Grant says respecting it would supply the deficiency; for he says he has many reasons to believe that Mr. Mills is a respectable man. It is of considerable moment, I need not say, when dealing with the credibility of witnesses, to ascertain what their character has been. We are here to deal with Mr. Mills and his father-in-law on the one hand, and with Mr. Stutt and
Mr. Shuttleworth on the other; and I venture to say that the statement made by Mills, the admissions made by Mr. Stutt in his speech to-night, his cross-examination of the witnesses, and his statements before the committee, will fully bear out the resolution which I now propose to submit to the House. The circumstances under which Mr. Stutt became acquainted with Mills are somewhat peculiar. Mills came to Melbourne with a view of having the land selected by McNeill given to him, he being the informer. That was then the practice of the department. Whether he visited the Lands-office on the first occasion does not affect the question; but on one occasion when he did visit it he met a person named Hadden, who was a boarder at the City Buffet, an hotel then kept by Mr. Stutt, and who had received considerable kindness from that gentleman. The report says that he had been accommodated with board there for weeks or months. The time is immaterial, because at any rate Hadden was generously dealt with by Mr. Stutt. Now what was the relation that he occupied to Mr. Stutt? No friendship is alleged to have existed between them; no previous acquaintance even. Nothing is known of Hadden's career beyond that he was a resident for some time at the City Buffet, and, as the honorable member for South Grant put it, a person on whom he bestowed his charity. Hadden had a claim against the Crown Lands department for some money he had paid in. He visited the department frequently with the ostensible, and probably with the real, object of getting it refunded to him. He received considerable assistance from Mr. Stutt, and, in return for Mr. Stutt's kindness, he recommended Mills to him; with what object or purpose it will be for the House to draw its own conclusions, after examining the evidence. Hadden took Mills to Mr. Stutt. It is within the knowledge of all honorable members that a practice sprung up, and has existed to a great extent for a considerable time, of constituents applying to their members to aid them in getting redress from the Lands-office. There can be no doubt that the peculiar circumstances of some cases justify honorable members in looking after the interests of their constituents in this respect. But nevertheless a new relation is thus sought to be imposed upon and justified by Members of Parliament in connexion with transactions at the Lands-office. Now Mr. Stutt, in his written statement to the committee, justifies, nay even advocates to some extent, the right of Members of Parliament to appear at the Lands-office as land agents.

In that statement Mr. Stutt says—

"I desire to guard myself from seeming to imply, that I consider it improper for a Member of Parliament to do land-fide agency business in any of the Government departments."

"A merchant importing goods does business with the Custom-house, whether he is a member of the House or not. One member of the House was actually paid by the Government for his services as a valuer, in the arbitrations as to Cole's wharf, and the House was aware of it. As Members who are proprietors of papers insert Government advertisements, and are paid for them in the same way as others who are not members of the House. Squatters and their agents and bankers do business with the Government, as also do professional men, without wrong arising out of it, although the parties may sit in either House; and therefore, while making the statements which I have made, in vindication of myself, I must protest against an increase of the difficulties and disabilities which hamper the position of members.

"Merely to act as agent is not dishonorable, provided that the work undertaken is honestly and efficiently done."

"If a member barters his independence in the House for departmental favours for himself or his constituents, it is disgraceful to all parties concerned; but inasmuch as no charge has been preferred against me, it is unnecessary for me to say more, in conclusion, than that I rest my case on this statement, which tends to exonerate me."

With these remarks I fully agree. It would be a great hardship if Members of Parliament, because they were merchants or professional gentlemen, should be prevented from doing business with Government departments. I have found it necessary, in the course of my professional career, to transact business at the various Government offices, and I suppose almost every solicitor has occasion to do so. Scarcely a day passes without my being obliged to do it. There is nothing disgraceful in a professional man, who is a Member of Parliament, transacting such business; and there would be nothing disgraceful in a Member of Parliament attending at the Lands-office for such purposes, as a land agent, and transacting his business as such, provided he held himself out to the world as a land agent. There are two or three instances, and amongst them that of Mr. Ross, who was formerly a clerk in the Government service, and voluntarily left the office and commenced business as a land agent. There was another case of a gentleman named Stewart, at Talbot, who also transacted business as a land agent; and at one of the land boards he declined to sit,

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Mr. McKean.
alleging as his reason that his own interests as a land agent might clash with his duties on the board. Therefore such a course as is here referred to would be perfectly fair and honorable, provided the officers of the department knew that Members of Parliament who acted as land agents there avowed that they acted in that capacity. But I venture to say that a member representing a constituency, and acting in the manner the evidence shows Mr. Stutt did act on behalf of a person who was an entire stranger to him, who was not one of his constituents, a person with whom he had neither business relations nor ties of friendship, and who had to be introduced to him by Hadden, is in a very different position from that. I say that his conduct throughout the case is totally inexplicable, unless he occupied the recognized position of a land agent. Now if Mr. Stutt did occupy that position, and if he had declared himself to the officers of the department as a land agent, I could conceive his justifying his conduct; but he has not adopted that course. He has to some extent pleaded "not guilty." In the statement he submitted to the committee, a statement prepared in a very careful manner—bearing on the face of it evidence of great consideration and revision—he pleads justification.

An Honorable Member.—No.
Mr. McKean.—I say that in my opinion he does. In the beginning of it, he says that he had no such business transactions. He denies that he was engaged by Mills in this business; but he justifies, as it were, the position which he declares he did not occupy, by saying that he sees nothing objectionable in a Member of Parliament doing business in the way of agency. Now, sir, honorable members have to ask themselves what it was that prompted Mr. Stutt to take up this case, to conduct a lengthy and somewhat technical correspondence, to involve himself in complications and difficulties, to go to the solicitor, Mr. Shuttleworth, to go to the Lands-office, to accompany Mills about from one place to another? The House must decide what it was that justified him in doing all this? Was there any consideration promised him, and if so was that consideration in the nature of an ordinary fee for agency business? Was the position occupied by Mr. Stutt incompatible with that of a Member of Parliament? Did he exercise undue or improper interference with the management of the Lands department, or did he unduly influence that department or the officers of it or the head of it, in the transaction of this business? These are questions to which honorable members must give answers satisfactory to their own consciences in dealing with this case. Now, sir, Mr. Stutt has placed great stress upon the dates of his interviews with Mills. Paragraph 7 of the report says:—

"Before leaving town, however, some time in November, 1868, Mills alleges that he offered £100 to Mr. Stutt for his trouble, in case he succeeded in procuring him the land; that Mr. Stutt said—'That would do,' and that they proceeded together to the private residence of Mr. Shuttleworth, Mr. Stutt's solicitor, for the purpose of having the agreement reduced to writing; that Mr. Shuttleworth not being at home, Mr. Stutt procured pen, ink, and paper, and drew up a document embodying the agreement, which Mills signed, the money being made payable to Mr. Shuttleworth, at Mr. Stutt's suggestion that it would not do to have the agreement drawn in his own name; that they afterwards found Mr. Shuttleworth at his office, and that Mr. Stutt handed him this document."

Now honorable members will see, on perusal of the evidence and the declaration, that Mr. Stutt saw Mills in the month of October in the first instance, and on the second occasion in the month of November; that the prosecution was not commenced against Mills until the latter end of December, and that it was finally abandoned by the Crown Solicitor on the 5th January. It will be necessary to bear these dates in mind. In the supplementary document laid on the table, in compliance with a motion by the honorable member for the Avoca (Mr. Davies), I find the following memorandum:—

"Peter Mills's Case."


"From inquiries I have learnt that Mills is not a person likely to make a false declaration, and that his statements are in all probability correct."

"Smyth and I agree that it was not a case to proceed with unless further directed.
(Signed) "Robt. Sutherland, For the Crown Solicitor."

"The Honorable the President of the Board of Land and Works."

It seems, therefore, that on the 5th of January the Crown abandoned all idea of pursuing Mills further in these law proceedings. Now Mills, at this time, was not conversant with the position in which he stood in the matter; because on the 9th of January he wrote a letter, in which he said:—

"I beg to inform you that I have received, from the Assistant Commissioner of Lands and
Survey, an answer to my letter to you of the 28th ultimo, and felt much pleased that you had so far advanced my affair that you had put the case in the hands of the Crown Solicitor."

This latter was dated from Lagoon-farm, Belfast, four days after the abandonment of the case by the Crown. It is evident, from the extract I have just read, that Mills believed that the action being taken by the law authorities in the matter was in his favour, and not against him. He saw Mr. Stutt on a second occasion, when they had a conversation about £100. Now Mr. Stutt, in his evidence, fully committed himself on this point, as to the £100, and in his statement he denies it. In his speech he admitted that a conversation on the subject had taken place in November. The fact is that he coupled together five or six matters in one sentence of his statement, and he denies that that sentence is wrong. What was the £100 to be given for? To supply him with funds, it is said, so that he could deal out to the solicitor as it might be required for the purposes of the prosecution. Now what is the evidence of Mr. Shuttleworth with respect to this £100? Question 1924 is asked, and answered as follows:—

"On the second occasion was a document handed to you to the effect that Mr. Mills undertook to pay you, Mr. Shuttleworth, £100, when he should receive from the Lands department the lease of certain lands?—No, most decidedly not; I never saw or heard of such a document."

I believe that answer shows that Mr. Shuttleworth never expected that a guarantee would be given by Mills, much less that a sum of money to that amount would be left with Mr. Stutt. Mr. Stutt never mentioned to Mr. Shuttleworth that the outlay of the £100 had been left to himself. And why did he not mention it? Because it was for remuneration to himself, and the transaction is only explainable on that hypothesis. If honorable members will refer to question 1931, when Mr. Shuttleworth is asked as to the time of the afternoon at which Mr. Stutt and Mr. Mills went to his office, they will find this:—

"What time in the afternoon?—To the best of my remembrance about two or three o'clock. I think Mr. Mills said, that he understood that they were going to prosecute him for perjury, and the question was, whether he should defend it or not; he said of course he was not guilty of perjury, and that he felt that his was a just case, and he had plenty of witnesses who would prove that it was so."

I will ask the attention of honorable members especially to this:—

"And he asked me my opinion in a casual way, as I suppose Members of Parliament's constituents come to their attorneys and bother them to that extent. Of course I told him that if it was a just case he had better defend it, but he had better take counsel's opinion."

Now is this very like the advice that would be given by a solicitor retained by a client who had placed in the hands of a Member of Parliament £100 which was to be dealt out as the proceedings in the case required funds? Now let us take question and
answer 1932, where the same witness is asked and replies as follows:

"Did you write to him after that?—No; but a letter came up a few days afterwards. I did not pay much attention to it, for I was anxious to shirk the affair. I did not see much profit to be got out of it; but I think he wrote me a letter."

I venture to say that if it had been known that there was £100 attaching to the business the answer would have been different. If that money was placed in Mr. Stutt's hands for the purpose of carrying on the defence in the prosecution case, how was it that Mr. Shuttleworth knew nothing of it, and was allowed to feel and express indifference about the matter because he "did not see much profit to be got out of it"? Is it usual for attorneys to shirk matters of business of this character, when they know that there are funds attached to them? So much for the £100. Then there is the evidence as to procuring pen, ink, and paper, and drawing up the document. Now to gentlemen who have received a legal education and to solicitors, the distinction between a bill of exchange and a promissory note is simple enough; but even to lawyers, when such instruments are drawn out of the usual course, very difficult questions sometimes arise upon them. By an alteration in the phraseology it may become a mere promise to pay. Is it, therefore, anything very unreasonable or improbable that a man occupying Mills's position should find a difficulty in giving a legal definition of the exact character of the document and saying whether it was a bill of exchange, a promissory note, a draft, or any other such instrument? Honorable members who have perused the evidence will recollect that when Mr. Stutt and Mr. Mills went to Mr. Shuttleworth's house, it was for the purpose of getting that gentleman to revise, and not to draw, the declaration. The object was to get the stamp of the legal mind and authority upon that document, which had been already occupied. Their object was to get the stamp of the legal mind and authority upon that document, a document which had been already prepared evidently either by Mr. Stutt or Mr. Mills, if it was not—as was probable—a joint effort. If honorable members will refer to question and answer 1896, this view will be borne out. Mr. Shuttleworth was asked by the honorable and learned member for the Ovens (Mr. Kerferd)—"You say Mr. Stutt is your client," and his reply was:

"Mr. Stutt has been my client for the last seven years; he brought Mills as he has occasionally done with his constituents—as I suppose all Members of Parliament—and give a great deal of trouble—and he said—Here is a declaration Mills has made, will you look at it and see if it is correct." I looked at the declaration, and it was one that nobody on earth could believe. I do not say it was a false statement, but it contained statements—

The two next questions and answers are as follow:

"What did you do, did you draw a declaration?—I cannot tell you without telling you the other first."

"Did you draw a declaration for Mr. Mills?—No, I did not."

Now it should not be forgotten that Mills is quite clear upon the point, that this £100 was given in consideration of Mr. Stutt's services, and he denies in toto that it was given for the services of the attorney. The language of Mr. Shuttleworth is—"and also £5 5s. for costs;" and the letter in which he uses that expression is written under peculiar circumstances. The letter runs thus:

"No. 225, Swanston-street, Melbourne,

"7th January, 1869.

"Dear Sir,—If you will copy, sign, and date the letter on the other half, and send the same to me, and also £5 5s for costs, without delay, I can get the prosecution withdrawn, otherwise it must go on.

"Yours faithfully,

"FAIRCROSBEE SHUTTLEWORTH."

"Mr Peter Mills."

I venture to say that no more improper letter than that could have been written by a professional gentleman.

An Honorable Member.—Why?

Mr. McKEAN.—Simply because, in the first place, it is untrue and wrong in a solicitor to state that he will get a criminal prosecution withdrawn for a fee of five guineas; and secondly, that he could not undertake to get it withdrawn at all, and he is telling a falsehood. How could he interfere with the Crown? Could or would the Crown be influenced by proper representations on the part of Mr. Shuttleworth?

Mr. G. PATON SMITH.—The Minister of Lands is totally misconceiving the evidence. That was a private prosecution.

Mr. McKEAN.—The letter of Mr. Shuttleworth is dated January 7, 1869, and on the 5th of January the Crown Solicitor said—"From inquiries, I have learned that Mills is not a person likely to make a false declaration, and that his statements are, in all probability, correct." Mr. Smyth and I agree that it was not a case to proceed with, unless further directed. I am now told that he does not refer to that matter. Then what does he refer to? Mr. Shuttleworth is
ashamed to allow the letter to appear in his own handwriting—he even leaves the date blank, and merely writes at the head of it "Lagoon-farm." He does not allow his own clerk or himself to appear as penning the document. For what does he say? "If you will copy, sign, and date the letter on the other half." That, I think, shows that it was not an honest transaction that would bear the light of day. Here is the letter that Mr. Mills was to deal with in this way:

"Lagoon-farm.

"Sir,—Having reconsidered all the facts connected with your selection of land in the parish of Garvoe, and having made further inquiries, I am now satisfied that the statements made by me in the declaration lodged in the Lands-office against your application to purchase were made on a misapprehension of facts, and therefore am willing to withdraw those statements.

"Yours obediently,

"To Mr. S. McNeill."

I say he was ashamed of the transaction, and the fact of his leaving the date to be filled in by Mills, of itself, paints it as one of a character derogatory to the position of a professional gentleman. With regard to this letter, it bears very materially on Mr. Stutt's statement. Mr. Stutt received from Mills a letter, dated from the City Buffet, on the 24th December, which purported to be written from Lagoon-farm on the 28th December. I will read that letter:

"Melbourne, December 24th, 1868.

"Mr. Stutt, Esq.

"Sir,—After mature consideration and a personal interview with my friends, I have thought that the best steps for me to take will be to get the declaration I lodged at the Lands-office withdrawn, and I should feel grateful to you if you would personally intercede with Mr. Grant to allow it to be done. Circumstances have occurred since that time which have induced me to come to this determination. I find that the law expenses will be of a very heavy character, and another difficulty might arise from an inability or neglect of my witnesses to appear in the proper time, and in the event of such a thing happening, by which I should be sure to have the case decided against me, my character would be ruined and I should not get the land after all. I trust, therefore, that you will do all in your power by your influence to induce Mr. Grant to accede to my request."

On the 7th of January there is the invitation to withdraw the statement, but Mr. Stutt says that prior to that he got a letter from Mills. That letter was never produced, and it is a singular circumstance that Mills denies that he ever sent it. Questions 1916 and 1917, and Mr. Shuttleworth's answers to them, are as follows:

"Did you receive any reply to either of those?—No, I received a reply to the last letter."

Mr. McKeane.

"To what effect?—To the effect—the letter that I wrote, I see by the report, was on the 7th January, then the letter I received from him was. I think, dated the 9th of January—he said he had communicated with the department, or with some officer in the department, and stated that he would go on with his case, and he requested me to communicate that fact to Mr. Stutt, or something to that effect. I could hunt up the letter if it is of importance."

That, I think, shows that Mr. Stutt was wrong in his statement. If the letter had been forwarded to him from Lagoon-farm after Christmas, there was no necessity whatever for Mr. Shuttleworth to write his letter. The letter from Lagoon-farm is at least singularly corroborative of the position that Mills believed he held in relation to the matter. Mills says:

"Lagoon-farm, Belfast, 9th January, 1869.

"Honorable Sir,—I beg to inform you that I have received from the Assistant-Commissioner of Lands and Survey an answer to my letter to you of the 28th ultimo, and felt much pleased that you had so far advanced my affair that you had put the case in the hands of the Crown Solicitor.

"Honorable Sir,—In reference to the many vague reports in circulation which I stated to you in my letter, my friends almost persuaded me to decline further proceedings; but, taking legal advice in the case, and confiding in your impartial justice, I am determined to follow up my legal claim for the land, for I have many respectable witnesses to come forward and prove that McNeill had, without prejudice, been possessed to them that he had actually disposed of this land."

Does this look like the authority of Mr. Stutt to present the letter written at the City Buffet, but dated from Lagoon-farm? The letter goes on:

"I have to say that the land is materially deficient of the improvements required by the Land Act, and from reliable information that Mr. Tobin is in the actual possession of the land; and that as the public at large have evinced to me continually their belief in the justiness and truth of my application, and in the ultimate triumph of my right, if the Land Act is truly administered, as every one believes at present, and thus I am per force compelled to confidently, in belief of truth, to persevere."

"Honorable, sir, &c.,

"Peter Mills."

This letter clearly shows that Mills had no intention whatever of withdrawing from the prosecution of this case, and affords a still further corroboration of the theory that Mr. Stutt was in error when he said that he had received such a letter. I will give a summary of the evidence from question 663 to question 673, both inclusive.

An Honorable Member.—Read them.

Mr. McKeane.—After Mr. Mills was asked whom he saw at the Lands-office when he went there with Mr. Stutt, he replied—"Mr. Frazer or Mr. Davies, I will not be positive which." Then follow
the questions and answers to which I have referred, and which I proposed just now to read in a summarized form:

"Was he a tall gentleman or otherwise?—A low-set stout man.

"Was this the first time you had seen Mr. Frazer?—I do not know whether it was Mr. Frazer; it was the first time I saw him in my life."

The questions and answers to which I have referred, and which I proposed just now to read in a summarized form:

"Was he a very fat man?—Yes, a very corpulent man.

"Did Mr. Stutt and this stout person go in and see Mr. Grant?—Yes, and this gentleman was in. This gentleman was in before Mr. Stutt went in.

"Mr. Frazer was in with Mr. Stutt?—Yes.

"Mr. Stutt went in and saw Mr. Grant?—Yes.

"And this stout person with him?—Yes.

"Did you go in with them?—No.

"When Mr. Stutt came out did he tell you what had transpired?—No, he did not tell me what had transpired.

"What did he say?—He went away then. He did not speak to you, and went away?—He did not go away altogether; he saw me after I came out again."

One of the questions put amounted to this—"Was Mr. Frazer there?" and he said "Yes," for he evidently identified the very stout gentleman with Mr. Frazer. Then the chairman asked—"Did you go in with him," and he answered—"No."

The committee in framing the report have assumed that the stout gentleman who was with Mr. Grant on the occasion in question was the honorable member for Creswick (Mr. Frazer). I am not here to justify every sentence of this report, for I am performing, as I have said before, a mere perfunctory duty, and am not prepared to support it further than it is supported by the evidence. Now, at question 662, Mr. Mills is asked—"Whom do you see at the Lands-office the next morning, when you were there with Mr. Stutt?" and his reply is—"Mr. Frazer or Mr. Davies, I would not be positive which."

The purposes of the motion which I am about to submit to the House, I am—"Two days later, Mr. Shuttleworth wrote the letter (set out above) assuring Mills that the prosecution against him could not be withdrawn unless he signed a letter abandoning his case against McNeill. On the 9th of January, Mills wrote to the President of the Board of Land and Works, reiterating his determination to follow up his legal claim for the land. On the 12th of January, Mr. Stutt lodged the letter dated 26th December, 1859, written by Elisha Smith at the City Buffet, requesting permission to withdraw his declaration; and which Mills alleges he had, a fortnight previously, countermanded. On the same day the purchase-money was accepted by the department of Crown Lands from Colin McNeill, whom your committee have no hesitation in declaring, on the evidence submitted to them, was not a bona fide selector, and had not complied with the conditions of the Land Act. Though the facts upon which they base this conclusion may not have been known to the department."
I think I have touched upon the most important points of the case, and I do not desire unnecessarily to prolong this discussion; but I would just briefly review some few of the facts mentioned by Mr. Stutt in his address to the House this evening. He says he does not know McNeill, and that this is a conspiracy against him—that the facts stated are not supported by evidence. I submit, however, that it is not necessary, in order to sustain the position taken up, that Mr. Stutt should know McNeill. He dwelt also a good deal on the fact that Mr. Shuttleworth was employed and paid by Mills; he dwelt also on the phrase “my solicitor.” But we know very well that Mr. Shuttleworth was Mr. Stutt’s solicitor for many years; and on this particular occasion he was acting in a dual position—that, whilst generally Mr. Stutt’s solicitor, he was, on this occasion, Mills’s solicitor also. The distinction attempted to be drawn is a distinction without a difference. Mr. Stutt took Mills to Mr. Shuttleworth, and therefore it was very natural that the expression “Mr. Stutt’s solicitor” should be used. Mr. Stutt does not give up the position of an agent. He says his services were gratuitous. Rather than keep Mills in town he volunteers to let Mills know when the land will be open to selection. His statement is consistent with the general evidence, and with the questions referred to in the margin of the report. Again, he says that in more than fifty cases he has assisted in putting men on the land. There is no doubt, as I have said before, that honorable members are called upon to do many things for their constituents, and where cases arise under the Land Act—and many such cases have arisen—it becomes a duty in some instances for Members of Parliament to see that their constituents have redress. One observation which the honorable member made in winding up his remarks was that, if any honorable member was guilty of such conduct as that alleged against him, he ought to resign his seat and go and do something else. “Resign his seat, and go and do something else.” Honorable members may say—“Oh, that is nothing.” But I hold that, in a case of this kind, the straw shows the course of the current; and I say that those little expressions, coupled with the general inconsistency of Mr. Stutt’s written statement, his oral statement, and his examination before the committee, justify me in asking the House to adopt this resolution—

“That, in the opinion of this House, the evidence given before the select committee on the Crown Lands department discloses a case of improper interference and undue influence on the part of Mr. Stutt, then and now a member of this honorable House, in the administration of that department.”

I ask honorable members, if they believe the evidence as given before the committee, and as summarized in the report, to support this resolution. They are not called upon to consider, in any way, what will be the effect of carrying the resolution. If they think it is warranted by the evidence, they are bound to adopt it, leaving to the Chief Secretary, as the leader of the House, afterwards to propose whatever course of action he may think it desirable for the House to take under the circumstances. It is not for us now to consider what course the Chief Secretary, as leader of the House, will take. Honorable members are now simply called upon to say whether Mr. Stutt used his position as a member of the House to make representations to Mr. Grant and the officers of the Lands department which were not justified—whether he exercised his influence in a way derogatory to his position as a member of the House and for his own benefit—for his own benefit, not as a land agent, but as a Member of Parliament—doing business ostensibly as a land agent doing business ostensibly as a Member of Parliament and not as a land agent. I have now brought my remarks to a close, and, before sitting down, I must express my thanks to honorable members for the patience with which they have heard me.

On the motion of Mr. BURTT, the debate was adjourned until the following day.

OAKLEY. POLICE.

Mr. MACPHERSON laid on the table, pursuant to order of the House (dated October 26), papers relating to an inquiry at Oakleigh, on the poundkeeper and the police.

PUBLIC WORKS.

Mr. MACPHERSON presented a return to an order of the House (dated October 28) of the amount paid out of the consolidated revenue from 1861, for the carrying on of public works, roads, and bridges.

The House adjourned at twenty-four minutes to twelve o’clock.
LEGISLATIVE COUNCIL.
Wednesday, December 1, 1869.

Destruction of Scabby Sheep—Commission of the Peace.


The President took the chair at twenty-one minutes past four o'clock p.m., and read the prayer.

PETITIONS.

Petitions were presented—In favour of the State Aid to Religion Abolition Bill, by the Hon. C. J. Jenner, from members of the Synod of the United Presbyterian Church of Victoria—Against the same measure, by the Hon. R. S. Anderson, from the Roman Catholic clergy and laity of Kilmore; by the Hon. N. Fitzgerald, from members of the Roman Catholic clergy and laity of the districts of Carisbrook, Maryborough and Castlemaine; by the Hon. W. H. F. Mitchell, from the Roman Catholic clergy and laity of Kyneton, and from members of the United Church of England and Ireland resident in and about Inverleigh; by the Hon. G. W. Cole, from the Roman Catholic clergy and laity of Ballarat; by the Hon. T. T. A'Beckett, from members of the congregation of St. Paul's, Ballarat, from members of the United Church of England and Ireland, in and about Castlemaine, Avoca, Blackwood, Birregurra, Broadmeadows, Bulls and Keilor, Camperdown, Carisbrook, Chewton, Chiltem, Creswick, Daylesford, Dunolly, Englehawk, Emerald Hill, Gisborne, Heathcote, Highton, and the Barrabool Hills, Kangaroo-flat, Kingston, Spring Hill and Smeaton, Learmonth, Linton, Little Bendigo, Brown Hill and Warrenheip, Mansfield, Melbourne (St. James'), Mornington, Mortlake, Northcote, Portland, Prahran, Sebastopol, Seymour and Avenel, Springs, Steiglitz, St. Kilda (Christ Church), Taradale and Malsbury, Walhalla (Gippsland), Wehla and Lilliiput, White Hills, Epsom, Huntley, Bendigo, Williamstown, and Yackandandah; by the same honorable member, from the Anglican Bishop of Melbourne; and by the Hon. J. O'Shanassy, from the bishop, clergy, and laity of the Roman Catholic Church in Melbourne. In favour of the speedy passage of the Municipal Corporations Law Amendment Bill, by the Hon. C. J. Jenner, from the mayor of the borough of Smythesdale.

SCAB ACT AMENDMENT BILL.

A message was received from the Legislative Assembly, requesting the concurrence of the Council in the amendments made by the Assembly on the Council's amendments in this Bill.

The message was ordered to be considered next day.

RAILWAY LOAN APPROPRIATION BILL (No. 2).

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

COMMISSION OF THE PEACE.

The Hon. W. A'Beckett asked whether the commission of the peace in force previously to January 1, 1869, had been cancelled, and if so, by what order in council, or by what authority it was accomplished?

The Hon. C. J. Jenner replied that there were no express words in the commission of the peace, dated 29th December 1868, superseding the justices previously appointed, but that in this respect the new commission did not differ from those previously issued. Such words appeared to be unnecessary, as a new commission virtually, though silently, discharged all the former justices who were not included therein, for two commissions could not subsist at once. It was, therefore, presumed that it was the intention of the commission of the 29th December to cancel the commission of the peace previously in force.

CALL OF THE HOUSE.

The House was called.

Twenty-eight members answered to their names. The Hon. J. P. Bear and the Hon. S. G. Henty were absent by permission of the House.

COMPENSATION TO MEMBERS OF PARLIAMENT BILL.

The Hon. C. J. Jenner.—Sir, I move that this Bill be now read a second time. As on a previous occasion, when I made a similar motion, I explained to honorable members the provisions and character of the measure, it will not, perhaps, be considered necessary for me to occupy the time of the House by repeating the observations I then made.
The Hon. W. H. F. MITCHELL.—I am not prepared to oppose the principle of the Bill or to accept it in its present shape. I should like your ruling, Mr. President, as to whether it is competent for the House to amend such a measure as this in committee.

The PRESIDENT.—I do not think it is competent for the House to amend the Bill in committee.

Mr. MITCHELL.—That being the case, sir, I shall feel myself compelled to vote against the motion. At the same time I have no hesitation in saying that, if it had been in the power of the Council to make such alterations in committee as would enable the Legislature to give compensation to members for the expenses they incur in attending their duties in Parliament, I should have been prepared to concede the principle; but, under present circumstances, it is not, I think, in the power of the Council to go into the question at all.

The Hon. T. T. A'BECKETT.—I would ask Mr. Mitchell to reconsider the point he has raised. It appears to me that the Bill may very well be altered in those parts of it which do not relate to the appropriation of money. I see nothing, for example, in the Constitution Act, that prevents our altering that clause which relates to the duration of the Bill. It has been done over and over again, and so recently even as in the Land Bill the other day, many of the clauses of which went so far as to make an appropriation of money. I believe it to be the feeling of the House that the time for which the Bill is to operate should be altered. ("No.") It is with matters of taxation alone that the House is prohibited from interfering.

The Hon. J. JENNER.—Sir, I rise for the purpose of moving the second reading of this Bill, the object of which is to make all religious sects in this community independent of State aid, by deducting the sum of £10,000 per annum for five years from the yearly grant of £50,000; so that at the expiration of that period State aid to religion will cease and determine. The Bill also provides for handing over absolutely all the lands now in the occupation of the various religious denominations for church purposes, schools, and ministers' dwellings to those parties who are now in possession. I think that by this a fair and liberal compromise will be arrived at. The lands at the present moment in possession of the various religious denominations throughout the country are worth at least £500,000; therefore by such an arrangement all parties interested ought to feel satisfied. I think it will be agreed on all sides that it is quite time this much vexed question, which is continually cropping up at elections and giving rise to most angry feelings on such occasions, should be definitely settled one way or the other, for I feel convinced it will always be a bone of bitter contention so long as it remains unsettled. If religion is worth
having it is worth supporting—("Hear, hear")—by those who receive its advantages. There are many Christians, or those who call themselves Christians, who desire to go to Heaven by giving as little as possible. That is the case with a great many members of every denomination. I believe that every minister and every congregation would be far better off without State aid than they have been with it; that there would be more life and energy in the churches, and a greater interest taken in the spiritual welfare of our fellow men. And I ask why should the Baptists, the Independents, and a large number of our other fellow Christians, who cannot conscientiously receive the assistance of the State, be called upon to pay taxes for other sects of religionists of whose doctrines they do not approve? Again, why should not the Chinese receive grants of land and money to enable them to erect Joss-houses to worship idols in—

Mr. T. T. A’BECKETT.—"The advancement of the Christian religion."

Mr. JENNER.—It seems to me that for every reason the present system should be abolished, and I think the example set us by the British Parliament is one well worthy of imitation, and of the admiration of all people. We find that, in all the British colonies south of the line, with the exception of Victoria and Western Australia, arrangements have been made for abolishing State aid. Western Australia is a mere convict settlement, and there, perhaps, it is not so much to be wondered at; but why it should be continued here is a mystery to me and to a great many others. The only reason I am at all able to assign for it is the fact that this House has rejected a measure for its abolition on several occasions. A Bill for this purpose was introduced into the Legislative Assembly by Mr. Michie in 1857. The second reading took place there on the 16th July of that year, when there were thirty-two members who voted in favour of the motion and twenty against it. The third reading was taken on the 9th of September, and carried by a majority of thirty-three votes to sixteen. The measure was introduced into this House by Mr. Strachan; and on the 29th of September it was rejected on the motion for its second reading by a majority of one. Again, a measure with the same object was brought in by Mr. Verdon in the Legislative Assembly in 1861. It was read a second time on the 8th March, the votes being fifty in favour of the motion and ten against it; and, on the same day, it was read a third time. It then came up to this House, Mr. Fraser moving the second reading, and the motion was negatived by a majority of fifteen votes over nine. It was introduced a third time, and it required one more vote to make up a sufficient number to form an absolute majority. Under these circumstances, seeing the wishes of the country on the subject, I hope honorable members will give this measure every consideration and pass it into law. It was read a second time in the Legislative Assembly in October, and forty-seven votes were recorded in favour of the third reading last month. I now move that the Bill be read a second time.

The Hon. J. McCRAE seconded the motion.

The Hon. W. DEGRAVES.—I rise to oppose the motion, and for this among other reasons. When our Constitution was granted to us, it was on the distinct understanding that all the engagements of the Crown should be strictly carried out. A grant for State aid to religion was one of those engagements. Although I might to a certain extent feel myself inclined to support a movement for doing away with State assistance to religion in all the largely populated towns of the colony, still whilst I know that so large a proportion of the people, both here and in New South Wales, are, as it were, buried in the bush—away from any chance of getting support from any other source, and certainly not from the parishioners—and they are the people who ought to support the clergy when State aid is withdrawn—I cannot but say that this colony is too young for such a radical change. I have known instances where the children of European settlers have been brought up in a way not one whit better than those of the aboriginal natives; and, whilst such a state of things continues, I contend that it would be a monstrous mistake, in a community like this, to do away by legislation with a system which is at all events calculated to improve it. I could understand the arguments in favour of abolition being sustainable in reference to Melbourne and Bendigo; but honorable members, by depriving the unsettled districts of such aid, will be assisting the development of a class of outrageous young scamps, who, brought up to cattle stealing, begin their
manhood's career with bushranging, and terminate it with the gallows.

The Hon. W. A'BECKETT.—I shall support this motion. I cannot understand the principle upon which it is argued that the State should subsidize all the various religious sects. It is not as if they were bound to disseminate the doctrines of which the State approved, for, on the contrary, each of these different sects characterizes every other one as a sect that teaches precepts that lead to perdition. How can the State, therefore, be called upon to subsidize that which eleven out of every twelve say is bad?

The Hon. W. H. F. MITCHELL.—I think it is now too late to inquire into the propriety of State aid to religion. As Mr. Degraves has pointed out, when our constitution was given us we made a distinct bargain that, in consideration of the colonial territory being surrendered to us, certain things should be done, and amongst those things that we should give £50,000 a year towards the religious instruction of the people. It is nothing more nor less than a simple matter of contract, and I should consider myself in the position of committing a breach of that contract were I to vote for the second reading of this Bill. I shall, therefore, oppose the motion.

The Hon. A. FRASER.—I retain the opinion which I have held and frequently expressed during many years past, on the subject of the grant in aid of religion and for church purposes generally. I think that, instead of its being a blessing to the denomination that receives it, it is a curse. ("No.") Well that is my opinion. I am persuaded that all denominations of Christians in this country that think proper to take advantage of it, are quite in a position to build their own churches and support their own ministers without it. When this colony was in its infancy things were very different, and no doubt then it was a proper and necessary system; but now that we have become wealthy and populous, I think it is a disgrace that we should subsidize the different denominations for payment of our ministers when we are quite able to pay them ourselves, if we have the desire: for "where there's a will there's a way." There is plenty of money for the purpose in the pockets of those very honorable members who advocate a continuance of these payments. I cannot, however, agree with the remarks of Mr. Jenner, who said that we should have the Chinese desiring to participate in the grant in order that they might erect joss-houses; because the aid thus given is not intended for the encouragement of idolators, but for the maintenance and advancement of the Christian religion; therefore until they are converted and become Christians they cannot be participators in it. I cannot but regard the continuance of the subsidy as working a very great injustice to those denominations who conscientiously feel bound to refuse it, whilst others take it, and divide it amongst themselves on a manifestly unjust plan. If we were to examine into that plan of distribution we should easily see who get the cream of the £50,000. I agree with the remarks that have fallen from Mr. Degraves as to the different position in which that portion of the community are placed who dwell on the outskirts of the colony and in the unsettled districts from the inhabitants of large towns and thickly peopled localities, and I think it would be a hardship and an injury suddenly to throw the former entirely on their own resources; but I am persuaded that, at all events, the grant should be withdrawn at once from large cities. The five years proposed will give plenty of time to work out any difficulty that may arise, although I anticipate none, and in that time every denomination in the country can very well provide all that is necessary for its churches and ministers. Rather than this Bill were thrown out, I should like to see a mutual concession made and a compromise arrived at. I have no objection to the time being altered to ten years, if that would meet the views of all sides; because we should then know that at a given period of time the injury which the Christian religion suffers from the present system would be put an end to. I hope honorable members will consider well before they vote on this important question. I am aware that private and secret caucus meetings have been held for some time past amongst certain honorable members with the object of concocting a scheme that shall secure the rejection of this Bill. That ought not to be. I have only said to-day what I have said on the same subject often before, and I shall now support the motion.

The Hon. T. T. A'BECKETT.—Sir, I rise to oppose the motion for the second reading of this Bill, coming before us, as it does, with a proposition by which the abolition of State aid to religion will be
accomplished so rapidly as to be productive of an immense amount of hardship and injustice to the people of this colony. I am sure that the object of the grant is one that will entirely command itself to the approval of every right-thinking member of this community—it is the advancement of the Christian religion in Victoria. People of right conscience cannot but admit that, up to the present time, the grant has carried out its object. It will not be denied that the Christian religion has been advanced in this land under its operation. I am sure that Mr. Fraser, if he answers himself the question, will admit that we have much to be thankful for in the grant not having been abolished years and years ago. He has just said, however, that he is prepared to abolish it now although he admits that in the early stages of the colony's history he recognised its utility and its necessity. Why, sir, I think we are now in the early stage of the colony. Surely the honorable member will not contend that we are in so settled a condition that we are not to expect new towns to be continually springing up and new centres of population to be formed! Do we not hope for a large influx of population from all parts of the world? And if this be true, I should be glad to learn why this grant is not just as important and essential to-day as it was when the Constitution Act came into operation. It seems to me to be taken for granted by Mr. Fraser that religion is so valuable, that as a matter of course it will be contributed to largely. This is not so, for we know practically that those persons who stand most in need of the ministrations of religion are the least inclined to give in support of it.

An Honorable Member.—More shame for them.

Mr. T. T. A'BECKETT.—No doubt, but so it is notwithstanding. Go to the reprobate—the man of no religious principles whatever—he scoffs at the Bible, scoffs at ministers of religion, and turns away in disgust or anger when he is asked to contribute; and yet, is not that just the very man to whom the ministrations of religion are the most valuable? Would not the honorable member himself endeavour to raise up some instrumentality by which the heart of such a man as I have described could be reached? I am sure he would; and yet he would make a man a supporter when his mind is impressed, but would never attempt to set up the organization to impress it. I am speaking now as the representative of the church to which I belong, and in which I have the honour to occupy an official position. I say that practically we have acted on the principle laid down by Mr. Fraser, because it is quite competent for a man to spend his money in the way that he considers it most likely to do good. In the Church of England, State aid to religion has been done away with in most of the large centres of population. We have in our church a classification of parishes to which, relatively to their position, population, and other features, grants are made. We begin with nil, and go on from those that are so circumstances as to require a little to those that require more, and still more; and from year to year certain places, as they increase in importance, and consequently stand less in need of subsidy, are transferred from one scale to another, until they in their turn come into the nil class, a class which is continually increasing, year by year. The argument of Mr. Fraser is that the clergy are to be thrown upon their congregations. Now the Bishop of Melbourne can hardly be said to have a congregation. He is an overseer of the church, and goes about from one place to another. The Dean of Melbourne is, as it were, an assistant to the Bishop. He has no parish and no congregation; but his work is very onerous, and very valuable indeed are the services he renders to the church at large. No doubt, therefore, it is most desirable that provision should be made by way of stipends to the Bishop and the Dean, and other clerical functionaries, who are required to carry out the organization of the church, and who should not be dependent upon a grant that might be withdrawn. Efforts have been made to endow a fund which would accomplish such an object, although at present there is no such adequate provision. But, sir, I desire to point out this fact, that large sums of money have already been expended on the erection of buildings in the anticipation that this grant would be continued. To do away with it in the manner proposed by this Bill would be to do a grievous injustice to those persons who have incurred such liabilities. The progress of public opinion in the direction of abolition has been spoken of. Now I think the fact is exactly the reverse of that. After the grant was proposed to be abolished, on three different occasions, the next time it
was brought before the Legislative Assembly there was positively a majority in favour of its continuance; and whilst we have heard scarcely anything said, by any portion of the community, against its continuance, hundreds of petitions have been presented against its abolition. I am aware that efforts have been made to get up an adverse demonstration, but, from all I can hear on the subject, they have resulted in signal failure. In the course of this debate some stress has been laid on the fact, that the several religious denominations, whilst they are to be deprived of the grant in aid, are to be allowed to hold their lands as a matter of endowment. I think the Legislative Assembly was under the impression that it would confer a very much larger boon than it really would, if it carried out this principle in its integrity. There are very few instances, I think, in which it would really prove a boon. Take St. Paul’s, for example, which looks like an endowment of a very valuable character, but is of very little practical worth. I believe that many more persons would be opposed to the Bill if they knew that it would prove so ineffective in its operation as it really will. I should be most glad to see the question permanently settled on some basis which will secure justice being done alike to all denominations; but I am sure that it cannot be accomplished under this Bill. In the first place, it will be necessary to make very large alterations in the measure, and there would be required an absolute majority in the other branch of the Legislature. Therefore, I think that nothing can be done without a new Bill, in the direction of settlement so as to meet the views of all parties. I should be most sorry if this matter was hurriedly disposed of in the way that another question has no doubt inadvertently been; because it is very important that we should show ourselves desirous of recognising the views and wishes expressed elsewhere on so important a question, and of dealing fairly and liberally with it. I sincerely hope the time will soon arrive when we can have a conference of the two Houses, and if that can be done I shall not despair of seeing the subject treated and finally dealt with on a basis that will satisfy all interests. I shallvote against the motion, because I feel satisfied that we cannot do that with this Bill. I, nevertheless, think it very desirable that honorable members of this House should express publicly their opinions on the question, in order that they may be recorded and referred to. For myself, I now say that, although I am opposed to this Bill as it stands—considering, as I do, that it is by far too summary in its mode of dealing with the church interests—and believing, as I also do, that the objects of those who propose giving up the lands to the various denominations will not be carried out under it—I think it susceptible of modification into a form in which it would not be unlikely to become law. Moreover, provision should be made for the preservation of the rights which certain persons hold under the old Act. I speak not only of the Bishop of Melbourne, but of others, the Rev. Mr. Wilson, for example, the Government Chaplain, whose interests should not be altogether ignored, as they would be if the Bill, in its present form, were passed into law. I earnestly hope that when the time does come for dealing with this question on the foundation of a mutual arrangement, there will be as liberal a disposition manifested as was shown in dealing with the Irish Church question in the House of Commons, when not only all existing rights were preserved, but a handsome sum was allowed by way of endowment, and the most liberal treatment was observed. I can see no reason why the same course should not be followed here as was adopted, under similar circumstances, in Tasmania and New South Wales, where a large sum was given in globeto endowment, and all existing rights were preserved. We should then be treated in a much more liberal way than it is proposed to treat us under this Bill.

The Hon. J. McCRAE.—Sir, I feel that I ought not to give a silent vote on this very important question. A question which has occupied so large a share of attention in the public mind for many years past should not be summarily or hastily disposed of by this House. I will, therefore, give my reasons for the vote I am about to record. Sir, I shall support the motion for the second reading of this Bill, and I shall do so for two reasons: first, I consider that the continuance of State aid to religion in this colony will do violence to the feelings and opinions of a large number of my fellow citizens; and, secondly, I do not consider that the principle of State endowment is beneficial to the cause of religion. I cannot believe that religion is in the least degree
advanced by its connexion with the State; and I certainly do not see any very great advantage that this colony has hitherto derived from the continuance of the principle. Mr. A'Beckett has stated that we have every reason to feel thankful for this grant. Now, sir, if I look at the population of this colony, and compare it with that of colonies in which State aid to religion does not exist, I confess I do not see that we are so far in advance, religiously speaking, as they are. I do not see that Victoria can boast of any extraordinary amount of religion above or beyond that of either South Australia, New South Wales, or Tasmania. We know that in South Australia State aid to religion has been abolished for a very considerable time, and is the population of South Australia, from that cause, worse off in a religious point of view?

Mr. T. T. A'Beckett.—Yes.

Mr. Fraser.—No, they are better.

Mr. McCrae.—I believe that true religion—I do not speak of any particular sect, but of the Christian religion generally—has made greater advances in South Australia under the voluntary principle than it has done in Victoria under the principle of grants in aid; and if this be so I cannot conceive why—if the grant does, as I say it does, violence to the prejudices of a large section of the community—it should be continued. Apply the question more generally, and I ask, has religion prospered in those countries, outside the colonies, where it has been in connexion with the State? If I look at my own native country I see that where religion has been supported on the voluntary principle—notwithstanding that it has suffered a very large amount of persecution—it has made greater progress than in any other country in Europe. I do not believe there is a country in the world where the Roman Catholic faith has been more tenaciously clung to than in Ireland; and if we look at the other side of the picture we find that where State aid has prevailed the cause of religion has retrograded. It is only a few years ago that some 500 or 600 of the ministers of the Church of Scotland came from out that church and threw themselves voluntarily upon the people. They were houseless and homeless, with no church to support them. But what was the consequence? Did the new church go down? No, sir, it has made greater progress than any other section of the Presbyterian Church in any other part of the world. It has more than once been said, in the course of this debate, that a contract has been entered into with the Home Government to the effect that we are to give £50,000 a year for this purpose, as one of the conditions of having the territory handed over to us. I should like to know by whom that contract, if it was a contract, was made, and with whom? (An Honorable Member—"The Home Government.") The Home Government did not care whether we gave £50,000 or 50,000 pence or farthings. Was it the old Legislative Council, who misrepresented this colony, that entered into this contract, as it is called? The bargain—if there was a bargain—was entered into by a comparatively irresponsible and not a representative Chamber. And with whom? With themselves in effect, to grant £50,000 a year for the purposes of public worship. I contend that there was no bargain, and even if there was one, it is quite competent now for the Legislature of this country to set it aside. If I thought the country was deriving any benefit from State aid I should be as anxious as any member of this House to perpetuate it; but, so far from its being a benefit, I quite agree with Mr. Fraser that it is a curse, because it sets class against class. For what do we find? We find one denomination of Christians in this country denouncing another, as being out of the pale. We know that a large proportion of the people of this country do not believe in endowments for religious purposes, and therefore why should they be compelled to pay taxes for the endowment of religion, in forms of which they do not approve? I sincerely hope this Bill will pass this afternoon, although I confess I have no great expectation of its doing so. I trust that, in any case, the time is not far distant when all connexion between Church and State will be done away with, not only in this country but in every other part of the world.

The Hon. J. O'Shanassay.—It is a remarkable characteristic of democratic institutions that those who hold extreme opinions are habitually ungrateful. Mr. McCrae has complained of the old Legislative Council of the country, and said that it was not a representative body. But he has placed himself in the unenviable position of having accepted the contracts made by them for and on his behalf, whilst at the same time he repudiates them. Now, sir, having had the honour of being a member
of that body, I may be allowed to say that I believe, historically speaking, it is easy of proof that it did more substantial service in the way of legislation for this country than perhaps did the Chamber that succeeded it. All the really great measures either originated there or were carried out there. It succeeded in obtaining possession of the entire territory and handing it over to the present Legislature; and yet Mr. McCrae withholds from those who accomplished so great a work as that the credit that is due to them. He in common with others received that advantage, and he is a representative to-night of that class of persons who, whilst receiving benefits, complain of those who confer them. I leave him in that position, which I think he will see is a false one. If the Crown gave us 55,000,000 acres of land, it was surely not unreasonable that the despatch which conveyed the intelligence of that munificent grant should attach to it conditions by which the existing rights and interests of clergymen and others should be protected. If Mr. McCrae had taken the trouble first of all to ascertain the facts and then to reason upon them, I think he would not have fallen into this extraordinary mistake; because he is under the impression that the £50,000 set apart for the advancement of the Christian religion from the proceeds of the public revenue, is a tax. Now it is not a tax, and consequently its appropriation does not do violence to the prejudices or opinions of any single individual in the community. It is derived from the sale of the territory, is paid into the Treasury, and paid out of the consolidated revenue. There is, therefore, no right on the part of any denomination to assert that it is paying for the religion of other persons, for it is not doing so. I believe the agitation in reference to this subject, which arose from misconception originally, will very soon die out when the question is properly looked at. If the grant were paid out of taxes I should be quite ready to join with Mr. McCrae in saying that it is unfair that one man should be compelled to pay taxes to support the religion of another. It is left to the Legislature of the country, if it thinks proper, to change the existing conditions, and this can be done by a measure which, having been passed by a majority of both Houses, shall be reserved for the signification of Her Majesty's pleasure. Now, from what we have seen, it is to my mind quite clear that, if both branches of the Legislature were unanimous on the subject of abolition, the Queen would be advised not to give the Royal assent to such a measure. In the cases of New South Wales and Tasmania, the Secretary of State had to send the Bills back, because they did not contain provisions for the preservation of existing rights; and consequently, as this Bill does not proceed upon the basis of either of these examples, if it were to pass this Chamber, it could never, in its present form, have the effect of law. No Secretary of State would dream of advising Her Majesty to assent to it so long as any clergymen petitioned the Throne on the subject, until existing rights were preserved. I think, therefore, that there is no necessity to argue the question from any other point of view. The matter now comes before us in the naked form of a proposal to reduce the grant by five instalments, extending over five years, and that at the end of that period it shall cease. Now, with regard to the church lands, I believe I am in a position to say that there is not a site in the occupation of religious bodies that could be converted into commercial purposes of any value; so that to propose to give them the power of dealing with those lands, as a quid pro quo for taking from them their endowment, is not only not conceding anything, but is an absolute mockery—a sort of starvation method of disposing of the question. With regard to the mode of bringing about a compromise which has been spoken of, the other branch of the Legislature has seen what the feeling of this Chamber has been on the question, and they also know what the feeling of the various religious bodies respecting it really is. I trust, therefore, that if it is proposed to deal with it in a permanent manner—if this question is to be settled on a definite and permanent basis—instead of a new Bill being initiated, a conference or joint committee of both Houses will be invited, and that they will take the evidence of the persons interested in the question; and when they have heard, in a constitutional mode, the feelings and views of those persons, they will be able—and not until then—to arrive at a sound conclusion. It is evident to me that the framer of this measure did not know his own mind. He appears to have been under the impression that he was giving an equivalent, but as he proceeded he found that he did not know anything about the ecclesiastical constitution, and
thus some of the provisions had to be abandoned in committee. The Bill is, therefore, lame and impotent. On these grounds the Council ought not to be asked to pass a measure that has not been constitutionally read a second time in the other House, and could not have the force of law. I trust, therefore, that, irrespective of the argument as to the propriety or otherwise of the State endowing religion, this House will set its face against the Bill. Mr. McCrae referred to the results of the voluntary principle in Ireland. I have visited that country recently, and I saw improvements in the churches, schools, and convents; but I think the real reason why advancement has been made in the religious character of the country is not because the voluntary principle has been in vogue, but because of the existence of a principle that will cause any religion to thrive—the principle of persecution. A religion so situated is almost certain to rally and thrive. I entirely disagree with the theory of Mr. McCrae. I have had the opportunity of seeing and watching the way in which the principle of endowment has worked in continental cities, and I know that both in Italy and France, but especially in Italy, there are sometimes to be found as many churches in one city as are elsewhere to be found almost in a whole kingdom. And those churches are well attended, too, and so are their charities and schools. I think, therefore, that it is going rather too far when these opinions are dogmatically set down. Not one single word of evidence has been adduced in support of the statement we have twice this evening heard made that State aid to religion is and has been a curse. In what way a curse? One speaker said that it was so because persons of different religions were in the habit of differing from one another. Now surely the honorable gentleman will not say it is a curse that persons of different sects who certainly oppose one another with a good deal of vigour. I honestly believe that the tax question is the whole source of the difficulty. There is now only one other point upon which I desire to touch very slightly. Of the entire community I believe from 90 to 95 per cent. avail themselves of the privilege conceded to them under the Constitution Act of taking the grant. At the end of thirty years during which this has been going on no one has proved that practical abuses have resulted from it. The fact is I believe that public opinion has never been taken in the shape of a distinct poll on this question. It has always been mixed up with the land question, the education question, or some other. I believe that the majority of the population of this country would not prove themselves to be, as has been asserted of them, hypocrites in religion. I cannot conceive on what hypothesis it can be said of them that they believe they have been wrong during the thirty years that they have received the assistance of the State. There is another view which must be mentioned with regard to this subject, apart from the merits of the State aid to religion question. Many persons are favorable to the provisions of the present Constitution Act, because they believe that they set at rest a very difficult question. Some persons thought there would be an attempt at ascendancy on the part of some body or another. But it established something like equality between religious bodies. The Bill aims at all Her Majesty’s subjects being on a footing of equality notwithstanding their religious differences. I have given a considerable amount of attention to this subject; and when I was lately in the old country I had great pleasure in seeing a friend of mine (Sir Coleman O’Loghlen) introduce two Acts of Parliament bearing on it. The object of one was to assert the principle contained in the Constitution Act, and that of the other to abolish an oath which was offensive to a large section of Her Majesty’s subjects. I was very glad to find both the Imperial and the Colonial Parliament concurring in this one idea. I desire, however, to call attention to the fact that the preamble of the Bill now before us asserts what I undertake to say is not true. It asserts that “all Her Majesty’s subjects in Victoria are and ought to be absolutely equal, irrespective of their faith or form of belief.” If the enacting portion of the Bill could carry out that principle I should be glad. But the measure as originally introduced contained a provision for creating religious denominations corporations for the management of land. Bishop Perry, who has petitioned the House this evening, has an advantage over the heads of the Catholic, Presbyterian, Wesleyan, and
other religious bodies, in that he is by law, at present, a corporation sole. I am not jealous of that. On the contrary, I consider it a fair and proper mode of carrying on the business of an ecclesiastical body; but I say that, in the face of such a fact, it is contrary to truth to assert, as is asserted on the face of this Bill, that "all Her Majesty's subjects are absolutely equal." They are not absolutely equal; and the Bill does not seek to carry out what the preamble sets forth. Then I am met with the argument raised by the honorable member opposite (Mr. a'Beckett), in which I concur—that a large class of Her Majesty's subjects are dissatisfied with the arrangements as to church lands contemplated by the Bill, but at the same time consider it desirable that some compromise should be arrived at. I think that a settlement might be arrived at by a joint committee of both Houses of Parliament, which would fairly and dispassionately consider the rights of all parties. But the present Bill comes before us in a very crude state, and I think the House will be doing right in rejecting it.

The Hon. N. FITZGERALD.—I may perhaps be allowed to offer a remark in reply to the assertion which has been made by supporters of the Bill, that no beneficial results attend the granting of State aid for religious purposes, and that, judging by what has occurred in neighbouring colonies, religion is better without that aid. I say that all that is assumption. If there is one fact more striking than another connected with the progress of this colony, since the discovery of gold—a fact more noticed by an observing traveller through the country than any other—it is the number and the substantial character of our schools, ministers' dwellings, and places of public worship. I think those structures furnish more convincing evidence than any array of figures can do that the religious bodies to whose management the distribution of this fund is intrusted have honestly and faithfully discharged their duty—that the grant is spent not in largely increasing the personal incomes of ministers, but in promoting what was contemplated when the provision was inserted in our Constitution Act, namely the spread and advancement of religion in Victoria.

Mr. McCRAE.—One half of the grant goes in salaries.

Mr. FITZGERALD.—If one half the grant goes in salaries, then more of the money which ministers collect from their congregations goes in aid of churches and schools. Several instances have come under my personal knowledge of ministers appealing to their congregations for aid in the erection of churches and schools meeting with a lukewarm response until the amount of the State grant has become known, when the difficulty connected with the raising of the necessary amount has at once vanished. More than a dozen such cases have come under my notice in the province which I have the honour to represent. This shows the beneficial results flowing from State aid, and would alone, if no other objection existed, decide me to vote against this Bill. It is urged that the House, if it reject the measure, will be acting in opposition to the feeling of the country. I deny that. I say the Bill is utterly opposed to the feeling of the country.

The Hon. W. CAMPBELL.—I happen to belong to the Presbyterian body, and although Mr. McCrae said that they were opposed to the continuance of the grant, I venture to say that such is not the case. With regard to the voluntary system, the same speaker has contended that countries have become better countries, religiously speaking, since they have adopted that system. Now in the case of Scotland, for example, I may say that I have recently visited that country, and, so far as my observation went, I came to the conclusion that it had not improved religiously. The disruption of that church has, in my opinion, proved an injury in many respects. I found two or three of the churches in violent opposition one against another, and the whole body was disunited and divided. I frequently observed this even in families, the father going to one church, the mother to another, and perhaps the children to a third. So that in place of the disruption having produced a happy effect, it has, in my opinion, produced quite the contrary. I have revisited my native country twice, and I flatter myself I am in a better position to judge of it in these respects than would be an honorable member who, perhaps, was never in it. With regard to the comparison that has been made between the several colonies, I think South Australia may perhaps be a model country; but then it should be remembered that it is but a small agricultural community composed of immigrants. I believe there are few countries in the world where the people as a rule are better behaved than
they are in Victoria, and I also believe that that circumstance is owing chiefly to their respect for religion. With reference to what has been said as to preserving existing rights, I think that clergymen who came out to this country on invitation have a vested interest in the church which it would be not only unwise but unjust to refuse to protect.

The House divided on the question that the Bill be read a second time—

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**CONTENTS.**

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Dr. Hope,  
Mr. Jenner,  Teller,
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**NOT-CONTENTS.**

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Campbell,  Strachan,
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Degraves,  Williams,
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Graham,  
Higheett,  Mr. Mitchell.

**LOCAL GOVERNMENT ACT AMENDMENT BILL.**

This Bill was recommitted. Some formal amendments having been made, the Bill was reported with further amendments, and the report was adopted.

**MUNICIPAL CORPORATIONS LAW AMENDMENT BILL.**

On the motion of the Hon. C. J. JENNER, the report of the committee on this Bill was adopted.

**LAND LAWS AMENDMENT BILL.**

This Bill was recommitted. The Hon. T. T. a'BECKETT moved the insertion of the following new clause after clause 14:—

"Where any woolshed, sheepwash, cattle-yard, drafting-yard, reservoir, tank, dam, well, or other improvement has prior to the commencement of this Act been made, or shall with the consent of the board hereafter be made on any Crown land held under a licence for pastoral purposes, the land on which such improvements are made and adjoining thereto shall be reserved for the exclusive occupation of the pastoral licensee of such lands, to the extent of one acre for £1 expended on such improvements, to the extent of not more than 320 acres on account of any one improvement, and the board shall cause such improvements to be valued and such reservations to be made by persons duly appointed for that purpose, and any question in dispute concerning such improvements or reservations shall be decided by the Lands Court established by this Act: Provided that, in the case of each run, until such reservations have been made, the regulations made by the Governor in Council, and published in the Government Gazette 21st October, 1868, entitled 'Notice to intending applicants under the Additional Regulations of 31st August, 1868,' shall remain in force."

The clause was agreed to.

Several formal amendments having been made, the Bill was reported with further amendments, and the report was adopted.

**ABATTOIRS BILL.**

On the motion of the Hon. C. J. JENNER, this Bill was read a third time and passed.

**MINING COMPANIES BILL (No. 2).**

This Bill was recommitted.

A verbal amendment having been made, the Bill was reported with a further amendment, and was then passed through its remaining stages.

The House adjourned at eighteen minutes to eleven o'clock.

**LEGISLATIVE ASSEMBLY.**

Wednesday, December 1, 1869.

**CASTLEMAINE WATER SUPPLY.**

Mr. KITTO asked the Minister of Mines if a portion of the money appropriated for the supply of Castlemaine and district with water had been transferred to the fund required for the completion of the Geelong scheme?

Mr. J. T. SMITH stated that no special fund had been appropriated from the loan, for the water supply of either Castlemaine or the district and the town of Geelong; and therefore no transfer from one fund to the other could have taken place. The works were being carried out under the schedule approved by the Legislative Assembly on the 17th of August last, and no departure from the schedule had occurred.
SPRING GULLY RESERVOIR.

Mr. CASEY called the attention of the Minister of Mines to the condition of the aqueduct from Spring Gully Reservoir to Huntley, and inquired whether he had received any communications upon the subject from the miners of Huntley, and what steps he proposed to take? The honorable member said that great complaints were made by the miners of the district in consequence of the flow of water being stopped owing to the silting up of the aqueduct, and urged that some steps should be taken to remedy this state of things.

Mr. J. T. SMITH replied that communications relative to the condition of the aqueduct had been received from the miners of Huntley. The department had made application for a sum of money to be placed out delay. The department had made application for the purpose of completing the works and placing them in permanent order, and in the meantime they would be put in a tentative state of repair, so as to enable water from the reservoir to be supplied to the miners at Huntley without delay.

EUROPEAN MAIL SERVICE.

Mr. G. V. SMITH asked the Chief Secretary what course the Government intended to adopt with reference to the establishment of steam communication with England via the Cape of Good Hope? The honorable member said that he did not desire to obtain any information on this subject which would be premature or inconvenient to disclose, but he thought that the House might hear what, in the opinion of the Government, was the best tender received for the establishment of steam communication with England via the Cape of Good Hope, and the one most likely to be accepted. The importance of establishing steam communication by that route appeared to have been rather underrated during the discussion on the previous evening.

Mr. MACPHERSON observed that the acceptance of tenders for the establishment of steam communication with England was a matter in which the Government could not act without the sanction of the House and the passing of a Bill by the Legislature. He did not know how it could be supposed that these tenders could be dealt with by the Government, as a matter of administration, without communicating to the House the whole of the information they possessed in reference thereto. (Mr. G. V. Smith—"State the best offer.") He considered that would be a most improper course to pursue. It would be infinitely better to state the whole of the offers than only one of them. The Government had power to make arrangements for the European postal service at a cost not exceeding £75,000 per annum, but that did not enable them to enter into contracts for the establishment of a line of steamers via the Cape of Good Hope; and he did not believe that the House would approve of their devoting to that purpose the money appropriated by the Land Act for the purposes of immigration. He knew that it was not a proper course to allow tenders to be inspected before the Government had made up their minds which they would accept; but it really seemed to him that the late Ministry had no more power to call for these tenders than ordinary individuals had—that was to say, they had no authority to accept any of the tenders on behalf of the country, even supposing they were reasonable. He would be obliged if the honorable member for Mornington would give him some information to guide him, and point out how a Government, after tenders had been invited for the establishment of a line of steamers via the Cape of Good Hope, was in a position to accept any of those tenders as a matter of administration, without bringing before the Legislature the various offers which had been received? It seemed to him that the Government had no power to accept any of the tenders, however reasonable they might be. He did not think that the Government could take any steps in the matter without submitting a Bill to the Legislature; and whatever could be done might, according to the tenor of the offers, be as well done at the beginning of next session as at the present time. He was not prepared to state what course the Government would be ready to pursue next session, but they fully recognised the desirability of having a line of ocean steamers by way of the Cape of Good Hope, if such a line could be established at a reasonable cost, and complete the voyage in something under fifty days, to enable a stream of immigration to reach this country as readily and cheaply, in proportion to the distance, as immigrants could go from England to Canada and the United States. That ought to be the aim of any Government which was in office next session. If the present Government remained in power, and if they
found that the object in view could be attained consistently with due economy, which every Ministry was bound to observe, they would submit a Bill to Parliament on the subject in good time.

Mr. McCulloch remarked that the Chief Secretary had very properly said that the Government would not be justified in accepting any tender for the establishment of a line of steamers via the Cape of Good Hope, without first introducing a Bill to obtain the sanction of Parliament to such a service; but surely the House had a right to ask the Government whether they approved of the proposed scheme or not—whether, in fact, they considered that the late Government was warranted in calling for tenders with a view to the establishment of a line of steamers by way of the Cape. The question of steam communication via the Cape was clearly and distinctly placed before the country at the last general election, and had on more than one occasion been brought before the House. Although no motion was submitted to the House, he believed that a general feeling was expressed by honorable members in favour of a line of steamers by that route, and therefore the late Government were fully justified in calling for tenders for the establishment of such a line. As the Chief Secretary had asked him what course he would recommend should be taken, he begged to state that he thought there was a very clear course before the Government. If they were in favour of a line of steamers by way of the Cape of Good Hope, it was their duty to come down to the House, with the information before them, and propose certain resolutions approving of the establishment of such a line for a postal service, or rather for an immigration service, and authorizing the introduction of a Bill for that purpose. The objection which he raised on the previous evening was against the present Government to the establishment of direct steam communication with England by way of the Cape of Good Hope, that a sum not exceeding a certain amount should be expended for that purpose, and that a Bill should be introduced to carry out the resolution. The Government would then have been in a position to accept whatever tender they considered most advantageous.

GOVERNMENT PRINTING OFFICE.

Mr. Farrell asked the Attorney-General whether, during the recess, it was his intention to appoint a royal commission to inquire into and report upon the working of the Government Printing-office? The honorable member said that last year a board was appointed to inquire into the working of the Government Printing-office, and, from two reports which it submitted early in the present year, it appeared at that time to be performing its duties satisfactorily; but since then, he believed, the board had abrogated its functions.

Mr. McDonnell stated that, if the board did not complete its inquiry in a reasonable time, he would appoint a commission. The fact that several members of the board were professional gentlemen, whose avocations did not allow them to proceed with the investigation so regularly as they otherwise would do, would, to some extent, account for a complete report not having yet been furnished. He had reason to believe, however, that a final report would shortly be adopted by the board.

"Hear, hear.") He was glad the Chief Secretary agreed with him. Whether the subject should be dealt with this session or not, he did not express any opinion; all he said was that the Government should themselves state whether it was their intention to go on with it now, or at the beginning of next session. They should give the House to understand whether they would take it up as a Government question next session. In the meantime he would advise the Government to conceal all the information contained in the tenders, until the subject was fairly dealt with by the House, and the House agreed to a resolution to spend a certain sum of money for the proposed service. It would then be for the Ministry of the day to adopt whatever tender would be most beneficial to the interests of the country. If he had remained in office up to the present time, he would have submitted a resolution to the House affirming that it was desirable that steam communication should be established with England by way of the Cape of Good Hope, that a sum not exceeding a certain amount should be expended for that purpose, and that a Bill should be introduced to carry out the resolution. The Government would then have been in a position to accept whatever tender they considered most advantageous.
RAILWAY PLANT.

Mr. ROLFE asked the Minister of Railways if it was the intention of the Government, in sending their orders to England for the railway plant, to instruct the Agent-General to invite tenders for the same in Belgium and France, as well as England?

Mr. LONGMORE said that the Agent-General had been instructed to take the opinions of the best engineers, and to act in accordance therewith. The question of inviting tenders in Belgium and France was not mentioned, but care would be taken, by the outgoing mail, to bring the matter under the notice of the Agent-General.

Mr. McCULLOCH remarked that English engineers were not likely to advise that tenders should be invited from Belgium and France; but no disadvantage could arise from calling for tenders in those countries.

Mr. LONGMORE promised that instructions should be sent to the Agent-General to invite tenders in Belgium and France.

MAIL CONTRACTS.

Mr. ROLFE asked the Chief Secretary if the contracts for the mail service were accepted in a lump tender, or in reasonable lots? The honorable member read an extract from a letter in a newspaper, urging that, if the mail service was let in a lump tender, or in reasonable lots, the honorable member would be better performed, and a great saving of expense would be effected.

Mr. MACPHERSON said he had been furnished with a statement showing particulars of acceptances of tenders for mail services for the year 1870, included in the first and second call for tenders. It appeared that out of 70 services in the first call, 55 were tendered for in bulk by Messrs. Robertson, Wagner, and Co., for a lump sum of £44,680, and their offer was accepted. The lowest separate offers for the same services amounted to £72,549, showing a saving in favour of the lump tender of £27,969, and a saving of £970 upon any other combination of tenders, which were principally from the same firm. For the remaining 15 tenders 12 single offers were accepted, and 3 were withdrawn. Out of 136 services in the second call, 67 were tendered for in bulk by Messrs. Robertson, Wagner, and Co., for £12,055 10s., and the offer was accepted, the lowest separate offers amounting to £15,015 2s. A saving of £2,959 12s. was thus effected by accepting the lump tender, and there was a saving of £634 10s. as against any other combination of separate tenders, which were principally submitted by the same firm. For the remaining 69 tenders, 67 separate offers were accepted, and two were withdrawn.

STAMPS BILL.

A message was received from the Legislative Council, intimating that they had agreed to this Bill with amendments.

The message was ordered to be considered next day.

CARRUM SWAMP.

Mr. KITTO (on behalf of Dr. MACARTNEY) asked the Minister of Lands if he had any objection to lay on the table copies of the papers relating to the leasing of this swamp?

Mr. MCKEAN said that the papers were very voluminous, and it was not advisable to have copies of them made; but he would direct that they should be placed on the Library table, so that honorable members might inspect them.

THE SANDHURST MAGISTRATES AND THE BOY CANNING.

Mr. MACKAY asked the Attorney-General if he had received any communication from Sandhurst in reference to the boy Canning?

Mr. McCLENN.—As soon as the honorable and learned member for St. Kilda (Mr. Aspinall) called attention to the matter in the House, I at once directed that a report of the circumstances of the case should be forwarded to me by the police magistrate at Sandhurst (Mr. McLachlan), which has been done. There were two points brought forward by the honorable and learned member for St. Kilda. The first was that the punishment imposed on the boy—forty-eight hours' imprisonment and five years in a reformatory—was greater than the offence justified; and the second was that, when the boy's father was summoned to show cause why he should not contribute to the maintenance of his son in the reformatory, the police magistrate let fall certain expressions, which, if they were made, were, in my opinion, more or less a breach of the privileges of the House. The correspondence, which I will read, shows the
circumstances under which the sentence was originally inflicted, and also how the remark attributed to the police magistrate was used, if it was used at all.

[The honorable member read the correspondence, from which it appeared that Mr. McLachlan, in reply to a communication from the Attorney-General, stated that Thomas Canning, the boy referred to, was brought before the bench, along with another boy, named Littlejohn, on a charge of horse-stealing. On looking into the matter, the charge was altered and laid under the 73rd section of the Act 27 Vict. No. 233, for taking and using a horse without the consent of the owner. It was proved that the owner saw his horse in his stable at ten o'clock on the morning of Sunday, November 7; that the horse, along with a spring-cart and harness, were missed about one o'clock in the afternoon of the same day, and that, subsequently, at a place seven or eight miles distant, the boy Canning was met driving the horse and cart, accompanied by Littlejohn. The latter was discharged, as he had hitherto borne a good character, and was induced by Canning to accompany him in the cart. Canning (who was sentenced to forty-eight hours' imprisonment, and after the expiration of the imprisonment to be sent to a reformatory school for five years) was a boy about ten years of age, who bore a very bad character. The police stated that he lived with his parents, who kept a grog-shanty at Kangaroo Flat, and who had been twice convicted of sly-grog selling. Many of the inhabitants of the locality had complained to the police about the boy Canning—that, amongst other things, nothing was safe that he could lay his hands on, and that he had on two different occasions taken away horses in a similar manner without the knowledge of the owners. A butcher at Kangaroo Flat had complained that his till had been robbed by his own son at the instigation of Canning; and the mother of Canning had on one occasion accused her son of stealing a pocket-book containing money from her, and had also complained to the police that she had no control whatever over him—that he was constantly, day and night, away from home, and that on several occasions she had had to tie him up with a rope and confine him in the cellar. As to the expression which he was alleged to have used when the boy's father was summoned to show cause why he should not contribute to his son's maintenance, Mr. McLachlan stated that the summons was taken out by the local police, at the direction of the Chief Commissioner of Police; that Mr. Motteram, solicitor for the defendant, said he was authorized to state that anything said by Mr. Aspinall was without the knowledge or authority of the parents of the boy; and that he (Mr. McLachlan) remarked that he feared it would do him harm—meaning the father of the boy. He positively denied that he ever used the words "in Parliament," as he was made to say in the newspaper paragraph referred to by Mr. Aspinall. A letter was enclosed from Mr. Motteram, who, alluding to the statement alleged to have been made by Mr. McLachlan, said—"The words 'in Parliament' were never used; but, referring to the question asked by Mr. Aspinall, I informed you that my client had instructed me to assure you that he had not directly or indirectly requested Mr. Aspinall to ask any question of the Attorney-General in reference to the case, and your reply was, that it made no matter if he had, 'it certainly would do him harm.' And this remark appeared to me at the time, and yet does, to imply that if an inquiry was made either in consequence of Mr. Aspinall's action, or with the object of obtaining the boy's release under the Statute at some future time, which it was my intention to make after such a time had elapsed as would in my opinion benefit the boy, anything which could be said against the boy's previous career, or his parents, might be prejudicial." It further appeared that Mr. Motteram, on behalf of Canning senior, offered to pay 7s. 6d. a week towards the boy's maintenance, but that the magistrates thought it would be sufficient to fix the contribution at 5s. per week.]

ESTIMATES.

Mr. MACPHERSON brought down a message from His Excellency the Governor, transmitting Additional Estimates of Expenditure for the year 1869, and Additional Supplementary Estimates for the year 1868, and recommending an appropriation accordingly.

The message, together with the Estimates, was referred to the Committee of Supply.

PUBLIC LIBRARY AND MUSEUM BILL.

Mr. MACPHERSON moved that this Bill be read a second time. He observed
that its object was to carry out the desire of the House that an additional number of trustees of the Public Library should be appointed, and power given to the trustees to take charge of the works of art and other matters connected with the institution.

The motion was agreed to, and the Bill was read a second time and committed pro forma.

CIVIL SERVANTS’ SALARIES.

Mr. MACPHERSON moved that the order of the day for going into Committee of Supply be postponed, with a view to the resumption of the debate on the report of the Lands Department Committee. The honorable member said he presumed that it was the wish of the House to conclude that debate before the Estimates were disposed of.

Mr. McCULLOCH asked if it was the intention of the Government to introduce a Supply Bill, in order that the salaries of the civil servants for the month of November and the other current expenses of the Government might be paid without delay? The Appropriation Bill could not be possibly disposed of in less than a fortnight or three weeks, but a Supply Bill might be introduced and passed through all its stages in one evening, thereby avoiding any unnecessary delay in paying the public liabilities.

Mr. MACPHERSON replied that the Government did not propose to enact such a farce as to bring down a Supply Bill in the last month of the year. In the opinion of the Government the Appropriation Bill might be passed within ten days with due justice to the interests of the country.

Mr. McCULLOCH said that the Land Bill would take at least a fortnight to dispose of. (“No,” and “Hear, hear.”) Why should the civil servants be kept another eight or ten days without their salaries when a Supply Bill could be passed without the slightest difficulty?

The order of the day for the House going into Committee of Supply was then postponed.

ADMINISTRATION OF THE LANDS DEPARTMENT.

SECOND NIGHT’S DEBATE.

The debate on the motion declaring that the evidence given before the select committee on the Crown Lands department, “discloses a case of improper interference and undue influence” on the part of Mr. Stutt, member for South Grant, in the administration of the department (adjourned from the previous evening), was resumed.

Mr. G. PATON SMITH. — Mr. Speaker, in addressing myself to the matter before the House, I think it is necessary that I should say just one word of explanation of the reasons which induced me to withdraw from the arrangement that the honorable and learned member for Dalhousie and myself should each prepare draft reports. At that time I occupied the position of Attorney-General and Vice-President of the Board of Land and Works. I sat on the committee in an official position, and, it being the desire of the committee that I should undertake the task, I felt that, however unpleasant it might be to me, it would be improper for me to refuse it. As regards the case under consideration, I did actually prepare a report; but, when the change occurred which is very well known to the House, I found that this matter was being made use of for political purposes. (“No.”) I say that the existence of the committee, not the committee itself, was being used for political purposes. Further, I noticed in the columns of at least one paper which seemed particularly well informed on the subject, the statement that these reports—the report of the honorable and learned member for Dalhousie and my own report—were to be drawn from an opposite political point of view. Under these circumstances, and having been relieved of the responsibilities of office, I felt myself no longer compelled or obliged to submit to the committee the report which I had already drawn. Having made that statement I shall proceed to deal with the subject-matter of the report. I distinctly wish it to be understood that however much I may differ from many of the conclusions arrived at, and the deductions drawn from the evidence—and certainly I do not concur in the statements affecting the honorable member to whom the report applies—I think that, on the whole, and except in particulars which I shall point out, the evidence is fairly condensed, and I must add that I do not discover in the report anything that would justify the supposition of animus. Having said so much, I will proceed to point out what I consider to be the defects in the report. To my mind the whole case lies in a nutshell, and therefore I see no reason for discussing the matter at great length. It appears to me that the committee failed in
one of the most essential portions of its duty, in a matter with which it was confronted at the very outset. An honorable member of this House is charged with receiving £100 as the consideration for procuring a lease for a person named Mills, and the evidence produced in support of the charge is that the honorable member worked in opposition to the interests of the person who was to pay the money. That seems to me to be a fatal objection to the report. To establish a case against the honorable member it would have been necessary to take some other view of the matter, and to show that in the interests of McNeill he was to get a larger sum. But that is where the report has utterly failed. Here is a charge that the honorable member for South Grant (Mr. Stutt) was to get £100 for procuring the lease for Mills, and it turns out that he procured it for McNeill. There is no evidence that Mr. Stutt was to have any consideration whatever for procuring the lease for McNeill. Now I submit it was the duty of the members of the committee to address themselves to the sifting of this matter. I have in my hand the original papers relating to this case, which were printed by order of the House. Among them is the declaration by Peter Mills, the 4th paragraph of which states—

"That in December last, and before I had elicited what the intentions of the department were, a message reached me from Mr. Stutt, M.L.A., urging me to see him without delay, when meeting together, he told me that 'the opposite party was too strong for me; that I would get three or five years imprisonment'; that Tobin offered B. G. Davies and W. Frazer, M.L.A.'s, the sum of £300 to carry on the case against me, and to defray the Government for all expenses; that they (Davies and Frazer) wanted him (Mr. Stutt) to join with them, &c."  

Among those papers is a letter addressed to the Minister of Lands by Mr. Davies, asking whether it was true that he had interfered in this matter, in any way whatever; a memorandum thereon from the Assistant-Commissioner of Lands and the Acting Surveyor-General, that Mr. Davies had never written or spoken to them relative to the case; and a letter from Mr. Frazer on the same subject, with a similar memorandum. Notwithstanding these facts, the committee did not think proper to summon the two honorable members whose names I have mentioned for the purpose of ascertaining from them whether they were interested in procuring this selection for McNeill, and, if so, whether they had included Mr. Stutt in any arrangement. And so we have a bald statement brought up in which a member is charged with obtaining £100 for a purpose which, according to the evidence, he systematically frustrated. I think some members of the committee now see that, instead of passing clause after clause of that report as it appears by the minutes of proceedings that they did in a single day, it would have been wiser if they had listened to a suggestion of mine, which also appears on the minutes, for the recommittal of the report on the following day, when I would have had an opportunity of attending, and this very grave defect might have been pointed out. But leaving that, I will address myself to the last paragraph of the report, in which the committee declare that they "cannot hesitate to recognise a distinct case of undue influence of a Member of Parliament in the administration of the Lands department." The first of the reasons which induced the committee to arrive at that conclusion is stated to be "the continuous interfering of Mr. Stutt, in a case with which he had no legitimate connexion." Well, I don't know that the interfering of any individual with any concern with which he has no business, whether it be interfering for pecuniary profit or a voluntary act arising from the man's interfering disposition, should form the groundwork of a charge of undue influence in the administration of a department, unless the interfering be traced distinctly to certain action by the department itself. Admitting that Mr. Stutt was constantly in attendance at the Lands-office, is it to be said that, because of that, undue influence was exercised by him in the department? Among the other reasons for the committee's conclusions are, the "attempts to induce Mills to withdraw his statutory declarations," and "the conversations concerning the £100." Now I want to ask the members of the committee who concurred in the adoption of the report, why they did not favour the House with a distinct finding upon the question as to whether Mr. Stutt received the £100 or not?  

Mr. DUFFY.—It is not alleged that he did receive it.  

Mr. G. PATON SMITH.—But the evidence goes to show that, if he did not actually receive the money, he received a promissory note for it. Where is the essential difference? If the committee found that Mr. Stutt received a promissory
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note for £100, why is it not stated on the face of the report? The House is entitled to know whether Mr. Stutt went as far as he could in the endeavour to procure for himself the sum of £100. There is nothing more alleged than that there was a conversation. The report then goes on to say that, in the proposed prosecution for perjury, in Mr. Stutt's presentation of Mills's letter, and in the immediate sale of the land, "your committee cannot hesitate to recognise a distinct case of undue influence of a Member of Parliament in the administration of the Lands department."

I say that not one of the conditions I have referred to justify this conclusion. It is not shown, or attempted to be shown, that McNeill's lease was expedited in any way in consequence of what Mr. Stutt did. It is not shown that the action of Mr. Stutt in dealing with Mills in any way influenced the Lands department. Now it should be remembered that there must be two parties to a case of undue influence. A Member of Parliament may use undue influence, but it does not follow that a department is unduly influenced by him. Therefore I say it was incumbent on the committee to show distinctly and clearly, before making such a charge against the Lands department, not only that Mr. Stutt had done acts which were improper and unbecoming in a Member of Parliament, but also that, in pursuance of those acts, the department had been improperly influenced. I put it to the House whether that statement in the report is in any way upheld by the evidence. I will now proceed to refer to some portions of the evidence. Honorable members will see that, as regards a large portion of this transaction, there is only the conflicting evidence of Mills and Mr. Stutt. True the committee are justified, as are all tribunals in circumstances of that nature, in weighing the evidence, and ascertaining which of the two is the credible witness; and I think it was the duty of the committee to arrive at a clear and distinct conclusion that Mills was to be believed, and that a member of this House was not. Now Mills, for ought I know, may be a very honest man. I am not going to impugn the testimonial subscribed for him by persons resident in his own neighbourhood; but we start with this fact, as regards Mills—that he was prepared to offer a Member of Parliament the sum of £100, in order to procure him an allotment of land. He states distinctly, in his evidence, that the offer came from him—that he made it in the first instance. Now I think a man's honesty, or his reputation for it, would sink considerably in the opinion of the House when it was found that he was willing to tamper with a Member of Parliament in that manner. I may here call attention to one extraordinary oversight on the part of the honorable member who is presumed to have drafted the report. The 14th paragraph of the report says—

"On this conflicting evidence, your committee have to remark, that Mr. Stutt did not produce the letter written from Lagoon-farm; that, assuming it was posted on the 28th of December, and received in due course, Mr. Stutt did not, as he declared, act on receipt of it, inasmuch as it was not till the 16th of January he lodged the letter written to the City Buffet. And nearly a week after the date at which the letter from Lagoon-farm would have come to hand in Melbourne, Mr. Shuttleworth wrote to Mills a letter, in which, so far from assuming that he had already withdrawn from the case, he endeavoured to induce him to withdraw, under a threat of prosecution for perjury. Your committee think it their duty to set forth this letter and its enclosure."

This having been done, the report states—

"Mills did not answer this letter, and on or about the 21st of the same month Mr. Stutt wrote to him that he must 'take no further proceedings in the matter, as this alone would get him committed to prison.'"

Now I have the answer to that letter in my hand. It was produced before the committee. Mr. Shuttleworth stated that he did receive a reply, and that he would fetch it. He went away, and came back with the letter. Mr. Shuttleworth wrote to Mills on the 7th January, and this is the answer:—

"Lagoon-farm, January 9th, 1869.

"Sir,—I have to inform you I have wrote to Mr. Grant that I intend to proceed with the case at once. Please let Mr. Stutt know of it at once, and by doing so you will much oblige."

Now here we have Mills denying that he ever wrote to Mr. Shuttleworth; he says in his evidence that he wrote to Mr. Stutt. Mr. Stutt says he never wrote to him, and the contents of this letter correspond with the contents of the letter alleged to have been written to Mr. Stutt. And yet, in the face of this, you have Mills stating point-blank that he did not answer Mr. Shuttleworth's letter. There is another discrepancy in the evidence which I think the House should carefully consider. It is said that Mr. Stutt and Mills went to the house of Mr. Shuttleworth, and that there the document purporting to be a promissory note or bill of exchange for £100 was drawn up. Mills, in his evidence,
A great deal has been said about the criminal prosecution, and I am amazed at the extraordinary error into which the framers of the report have fallen in this regard. I know, as a matter of fact, that a prosecution was contemplated by Messrs. Vaughan, Moule, and Seddon, acting at the instigation of McNeill. Two persons presumably injured by the false statement of a third person, commenced a prosecution for perjury. Mr. Shuttleworth tells you in his evidence what occurred. He was asked what he did for the five guineas. It was attempted to be shown that this fee of five guineas was a condition precedent to the withdrawal of the Government prosecution for perjury. It was nothing of the kind. And I think Mr. Shuttleworth gave a very reasonable statement as to what he did for the five guineas. He said:

"In the first place I saw him in this attendance and wrote him a letter, and then Mr. Stutt—I think it must have been—called upon me with a manuscript letter, written, I believe, by Mr. Moule or by his authority—I think by himself—stating that if that letter was signed the prosecution would be withdrawn; and I went down Chancery-lane to Mr. Moule. I could not find the office first of all—Mr. Stutt did not remember his name—and I went back to Mr. Stutt and went down there next day, and saw Mr. Moule; and Mr. Moule said 'Yes.' I got anxious by that time, for I thought the man would get into a scrape, and Mr. Moule said, if he signed that, the prosecution would be withdrawn; and I said he had written a letter before, and it took a long time to answer, I was afraid there might be some delay in the post, and said suppose the Crown go on, I do not want a warrant sent down after the man; and he said 'They will not go, for I am concerned for McNeill, and they will not go on without evidence; if he will sign that, saying it is a mistake, I will withdraw the proceedings.' Upon that I wrote a letter; and if that is not enough for five guineas I do not know what is."

According to an attorney’s tariff of charges, it was certainly a considerable amount of work for five guineas. There is no doubt whatever that there is no connexion between the two prosecutions. It may be that McNeill and his friends were threatening Mills with a view to compel him to desist from taking up the allotment. I have no doubt it was so; but that had no connexion whatever with the queries which were then passing between the Lands department and the Crown Law offices. Two distinct things were operating at the same moment. The Crown contemplated a prosecution against Mills, and the solicitors of McNeill—and his friends contemplated the same thing. It has been said that Mr. Shuttleworth was afraid to put his name to the document transmitted by him to Mills. But the answer to that is that the document was drafted by Mr. Moule, and sent to Mills at his dictation. Wherefore? Because Mills, at the end of December, when he went to Mr. Shuttleworth’s office with Mr. Stutt, stated that he knew he was threatened with a prosecution for perjury, and that he wanted to consult Mr. Wrixon. I think we have thus got rid, to a large extent, of the confusion in which the report has necessarily involved the House. I will now say a few words in reference to the paragraph in the report relating to Hadden. An attempt has been made to show that Hadden was an attaché of Mr. Stutt, and used for the purpose of bringing Mr. Stutt business. If that were the case, I venture to say the committee would not have concluded their investigation without some evidence that Hadden had acted in a similar capacity in other instances. We know what rumour is. We know what a desire there is on the part of this community to scandalize persons if they can. And therefore I say that, if there had been a tittle of evidence to be had from any outside parties with respect to this matter, no doubt it would have been forthcoming. I would observe, with all respect to my honorable friend, the late Minister of Lands, that I think Hadden was very hardly used; and that I should have considered it no impropriety, as a member of the House, to have done my best to redress the wrong under which I believe he was suffering. When I was appealed to by him, it was only because of the decision of an honorable colleague, who was supposed to be acquainted with the circumstances, that I declined to interfere in the matter. But I did make inquiries; and I say it is not because an individual does an act of kindness to another that all the world is to presume that it is no kindness whatever, but that the thing is done in pursuance of a sordid motive. That man was hanging about the city of Melbourne—sleeping on wharfs, in gas-pipes, wherever he could obtain shelter, as he pathetically told the committee—and this money was given him by Mr. Stutt to buy
flour for his wife and children, who were starving at home. Now I think it is unfair to any man who, by force of circumstances which cannot be appreciated at the time, has to come before a committee of this House, that he for the future, no matter how humble or obscure he may be, should be placed in an infamous position because it is necessary through him to establish a case against another individual. Now I challenge the members of the committee to prove that there is anything whatever, either in the evidence adduced, or in the connexion between Mr. Stutt and Hadden, to show that the latter attended at the Lands-office as tout; for the infamous purpose of procuring business for a Member of Parliament. In conclusion, I desire to say that I have always entertained the opinion, and I trust I shall never depart from it, that it is not a proper practice for Members of Parliament to be mixed up with transactions at public offices, outside their own constituents. At the same time, I am not prepared to go the length of saying that, if an honorable member is mixed up with such transactions, it is necessarily from corrupt or improper motives. The impropriety is in doing it at all, and I say it should not be done except under urgent circumstances, or unless the matter is of a character so public as to demand the interference of a Member of Parliament. I do not think it proper for a Member of Parliament to be a sort of go-between between a public office and any number of persons who may choose to solicit his aid. I recognise the distinction drawn last night by the Minister of Lands. The position assumed by Mr. Stutt is no doubt a position which he may fairly and properly occupy; but it is for the House to say that a member shall not accept any pecuniary reward whatsoever for any service which may be done in a public department. I don't think there is any evidence of that having been done. I don't stand here to scrutinise the motives which induced Mr. Stutt to act for Mr. Mills. It is not for the House to say that a member shall not accept any pecuniary reward whatsoever for any service which may be done in a public department. I don't think there is any evidence of that having been done. I don't stand here to scrutinise the motives which induced Mr. Stutt to act for Mr. Mills. It is not for the House to say that a member shall not accept any pecuniary reward whatsoever for any service which may be done in a public department.

Mr. G. Paton Smith,

arriving at any conclusion upon it. And as to undue influence on the department they have adduced no evidence whatever.

Mr. LONGMORE.—Mr. Speaker, the honorable and learned member for South Bourke, when he rose to-night, made some observations to the effect that he was prevented bringing up a draft report because a newspaper had stated that it was to be used for political purposes. But does not the honorable member recollect that, time after time, he came and excused himself to the committee, stating that he could not draw up the report because he had so much business to attend to? I am here to state that he did. He never once informed the committee that his report was not forthcoming because it was to take a political turn. The honorable member states that the evidence taken by the committee goes to show that Mr. Stutt used his influence to keep Mills off the land, and for that purpose only. But if the honorable gentleman had read the evidence carefully, he would have found that that was an afterthought altogether—that Mr. Stutt was at one time very desirous to get the land for Mills, and that, from some cause, he then turned round and attempted to frighten Mills, and succeeded in doing so. How came this change, after, according to his own statement, he felt exceedingly flattered at Mills proposing to intrust him with £100 to pay law expenses? The evidence goes to prove most pointedly that this change took place. Mr. Stutt even went so far as to get a relative to write, in the City Buffet, on the 24th December, a letter dated the 28th December, for Mills to sign, stating that he withdrew his application for the allotment and his declaration from the Lands-office. More than that, Mr. Stutt got his relative to make a solemn declaration that he wrote that letter on the 28th December—a declaration which was a solemn lie. The following information was obtained from Mr. Stutt's relative when he was before the committee:

"Where was the letter written?—At the City Buffet.

"It was dated as though it came from Lagoon-farm?—It was.

"Did you date it from Lagoon-farm?—I did.

"In the City Buffet?—Yes.

"And you say it was done on the 28th?—No; it was dated that, but it was written two or three days before."

But the following is the declaration made by Mr. Stutt's relative:

"I, Elisha Smith, of Hodde-street, East Collingwood, do solemnly and sincerely declare that, on
the 28th day of December, 1868, I wrote a letter for one Peter Mills, the purport of which was to allow him to withdraw a declaration made by him and lodged at the office of the Board of Land and Works, in reference to allotments 37 a b, 38 a b, parish and area of Garvoc; the said letter was written under his instructions; he paid me for writing the same the sum of 5s; that no one was present at the time I wrote the letter but himself; that the said letter was afterwards directed to Wm. Stutt, Esq., M.L.A. That I have seen the said letter at the office of the Board of Land and Works prior to making this declaration, and is the letter referred to in the declaration of the said Peter Mills.”

Elisha Smith’s letter is certainly not a letter that any respectable man would write and swear to. It is not necessary to go further into that matter; but at this point, from some cause—we don’t know what cause—Mr. Stutt sought to induce Mills to withdraw the statement which he had placed before the Minister of Lands. I admit that the question resolves itself into one of credibility; but wherever you find an independent witness who can corroborate Mills, the corroboration appears throughout the whole of that evidence.

Mr. JONES.—No. Mr. Shuttleworth.

Mr. LONGMORE. — He was not an independent witness. Mr. Shuttleworth, when he was asked a question, commenced talking at 40-horse power, and there was no possibility of getting him to stop. Notwithstanding what the honorable and learned member for South Bourke has said, reliable or definite evidence could not be obtained from Mr. Shuttleworth. Elisha Smith stated that no one was present when he wrote the letter; but if honorable members turn to the evidence they will find that Mr. Stutt, if not present when the letter was written, at all events gave instructions about it. Again, Mr. Smith swears that the letter was afterwards directed to Mr. Stutt. The following evidence shows how little value is to be attached to Elisha Smith’s testimony:

“What meaning do those words convey to your mind—‘That the said letter was afterwards directed to William Stutt, Esq., M.L.A.’?—I cannot say; it might have been put in the envelope and directed at the same time.”

The fact is, that Elisha Smith’s declaration was made to order from beginning to end. It either consists of deliberate lies or it sailed so near to the wind as to leave a wrong impression. Mr. Shuttleworth corroborates the evidence of Mr. Mills. Mr. Shuttleworth’s letter to Mr. Mills, dated January 7th, 1869, enclosed a document for him to sign of a most peculiar character;—

“Sir,—Having reconsidered all the facts connected with your selection of land in the parish of Garvoc, and having made further inquiries, I am now satisfied that the statements made by me in the declaration lodged in the Lands-office against your application to purchase, were made on a misapprehension of facts, and therefore am willing to withdraw those statements.”

The honorable and learned member for South Bourke read a letter dated the 9th of January, which he contends is an answer to this communication; but the fact is, it proves that Mills had not received Mr. Shuttleworth’s letter. The presumption, at all events, is that he had not received it, because he takes no notice of it, and his letter is in direct contradiction to the whole spirit and tenor of Mr. Shuttleworth’s communication. It is possible that, in the course of post, Mr. Shuttleworth’s letter might have reached Mr. Mills, but the presumption is very strong that he had not received it when he wrote to Mr. Stutt, particularly as, on the same date, he wrote to Mr. Grant saying:—

“I beg to inform you that I have received from the Assistant-Commissioner of Lands and Survey an answer to my letter to you of the 28th ulto.; and feel much pleased that you had so far advanced my affair that you had put the case in the hands of the Crown Solicitor.”

Mr. Mills states that he wrote a letter from Lagoon-farm, dated December 27th or 28th, to Mr. Stutt, telling him not to hand in to the Lands-office the letter which he wrote on the 24th of December. Mr. Stutt never produced this letter, and denies that it instructed him not to present the letter withdrawing Mr. Mills’s declaration; but there is letter after letter from Mills to show that he did not intend the declaration to be presented at the Lands-office. Not only the balance of evidence, but the whole evidence in this part of the case, is in favour of Mr. Mills. The honorable and learned member for South Bourke talked about the committee sitting for such a length of time and not doing its duty. No committee of the House ever met under such difficult circumstances as this one did. Time after time there were only four members present, and we were compelled to adjourn, simply because the honorable and learned member for South Bourke and some others would never attend to form a quorum when they found that things had gone to a certain length. We found the greatest difficulty in forming a quorum, which was almost invariably done without the assistance of the Government of the day. When a quorum was formed there was no lack of members, but
the difficulty was always to form a quorum in the first instance. The honorable member for South Grant (Mr. Stutt) complains that his case has been kept over so long. He has reason to complain. He ought not, however, to attack the whole of the committee, but the very gentleman who has addressed the House to-night (Mr. G. Paton Smith) and taken his part. Another honorable member (Mr. Lalor) has indulged in a heavy tirade of abuse against me because I did not bring up the report of the committee. That honorable member acted as chairman, and he knows that the committee was not asked for by me, but by the late Minister of Lands. I certainly had, before the committee was appointed, a notice of motion on the paper relating to certain matters connected with the administration of the Lands department; but when the Government of the day took up the question, I withdrew my motion. I, at all events, am not answerable for the delay in bringing up the report, seeing that, with one or two exceptions, I attended every meeting of the committee. The honorable and learned member for South Bourke has asked why the committee did not find that Mr. Stutt received either £100 or a promissory note for £100. Sir, it is a question of the balance of evidence. We have Mr. Mills's statement that a promissory note was written, and we have Mr. Stutt's evidence, on the opposite side, that no such document was ever prepared. But Mr. Stutt, in his speech last night, acknowledged sufficient to show that the matter of the £100 was discussed between him and Mr. Mills, which leads to the presumption that, when Mr. Mills says the document was drawn up, he is not far astray. The honorable member who is accused of taking the £100 admits that £100 was spoken of, and that he was to receive it, although he does not admit that the purpose for which it was to be given him was the same as what Mills says it was. It is simply a question of credibility. One man says he gave it; the other says he did not receive it, but admits that it was spoken about. We know that these things are not generally done before the whole world. The honorable and learned member for South Bourke says that the offer of £100 is a strong argument against the character of Mills. It is a good argument against him, but it is just as good an argument against the honorable member for South Grant (Mr. Stutt), or perhaps better, seeing that he acknowledges having spoken about the £100. The honorable member acknowledges that there was a great deal of talk about £100, and it is simply a question of the balance of evidence as to whether he or Mr. Mills is to be believed. It was impossible for the committee to give a finding about the £100. They might have said that there was a desire on the part of Mr. Mills to give £100, and that Mr. Stutt was not altogether unwilling to receive it, but they could not have gone further. I do not think that Mr. Stutt will deny that there was something more than simply talk about the £100. The honorable and learned member for South Bourke said that Mills was afraid that Mr. Moule was going to take proceedings against him—that his terror had nothing to do with the prosecution by the Crown. I do not think we have it in evidence that Mills knew that Mr. Moule was going to commence a prosecution against him; but it is quite clear that Mills knew the Crown was going to commence a prosecution against him on the 19th of January. Two days after Mr. Shuttleworth wanted him to withdraw his declaration, he was aware that the Crown Solicitor had got his case in hand, and he was thankful that it was so far advanced, as he was aware that he had a good case. The honorable and learned member for South Bourke said that the document sent to Mills was drafted by Mr. Moule, but there is no proof of it.

Mr. JONES.—There is Mr. Shuttleworth's evidence, and Mr. Moule is not called to contradict it.

Mr. LONGMORE.—Mr. Moule came before the committee and asked to be allowed to appear as solicitor for Mr. McNeill, but the committee did not apprehend that there was any necessity for Mr. McNeill having a solicitor, and therefore they did not grant the application. A great deal has been said about Hadden—that poor man who has been so much commiserated. If Hadden had worked for his wife and family, instead of trying to defeat the operation of the Land Act of 1865, he might have earned a living for them.

Mr. G. PATON SMITH.—How did he defeat the Act?

Mr. LONGMORE.—I have a written agreement between him and Mr. Edward Henty, by which he gave up land that he had selected to Mr. Henty.

Mr. G. PATON SMITH.—An exchange.
Mr. LONGMORE.—Exactly so—contrary to the Act. If the honorable and learned member wished to bring witnesses to prove anything on behalf of Hadden, he ought to have done so; it was not for me to call them. I was no more chairman of the committee than he was. We find that, immediately Mr. Stutt brought the letter signed by Mr. Mills at the City Buffet, before Mr. Grant, the then Minister of Lands, McNeill’s money was taken for the land, notwithstanding all the declarations which had been sent in to prove that he was a dummy. Can the honorable and learned member for South Bourke justify the course which he took in the matter? Never was a man worse treated than Mills. The late Attorney-General directed all the strength of the Government against him to prosecute him for wilful and malicious libel.

Mr. G. PATON SMITH.—Upon what authority does the honorable member make the statement?

Mr. LONGMORE.—If it was not against Mills it was against Ross, who simply acted as the agent in bringing the case forward. The whole power of the Government was brought to bear in favour of Mr. Stutt, as against Mr. Ross; and, more than that, Mills was frightened by the Board of Land and Works by all the declarations being put into the hands of the Crown Prosecutor, to see if a case could be made out against him. I say that, wherever Mills’s evidence can be corroborated by independent testimony, it is proved to be correct. Mills states that on the land held by McNeill he saw about £5 worth of rye-grass, and McNeill gave evidence that there were ten bushels. This is very close corroboration; and yet we find that Mr. Scott, the district surveyor, in order to make up a certain valuation, puts down 300 bushels, at 10s. per bushel. There is something very suspicious in this, especially when we find that declarations are got up to order, and that the Minister of Lands, immediately an impediment is removed out of the way, hands over the land to a man who is sworn by eight or nine people to be a dummy. It does not look well in any aspect of the case. Whatever Mills may be, I care not. I say he was not treated fairly by the Lands department, and he was not treated justly by those who apparently went to the Lands-office for the purpose of assisting him, but in reality did what they could against him—frightened him into doing a thing he regretted, and

contrary to his instructions, handed to the Minister of Lands a letter withdrawing his declaration.

Mr. HIGINBOTHAM.—Sir, I have listened to the explanation offered by the honorable member who is affected by this report, and also to the statements made by two of the members of the committee who have investigated the case, and I suppose that the House is now in a position to form a judgment upon the motion which has been submitted to it by the Minister of Lands. I confess that I have not read the whole of the evidence. I and other members are compelled to form our opinion as best we can from the statements made in the House by those who are most competent to acquaint the House with the merits of the case; and if those statements have been insufficient to enable me and others to form a just opinion upon this question, it is right I should state that I, for one, have not been able to peruse and consider, as perhaps it may deserve, the whole of the evidence given in the case.

The first thing which has struck my mind very forcibly upon this case is the importance which has been attached to the charge, and the magnitude of the attention that has been given to it by the committee, considering the nature of the charge and the evidence by which it seems to have been supported. The committee was appointed in the month of July last to investigate generally the action of the Lands department in connexion with certain allegations of undue influence by Members of Parliament. The committee sat until nearly the middle of November, and have taken evidence which forms a very bulky volume, consisting of more than 6,000 questions and answers, extending to 170 pages of type. And we have here the first, and I suppose, from its position in the report, and from the four pages of the report devoted to it, the more important case, in the opinion of the committee, of the only two questions which have been considered and reported on by the committee. The only charge in connexion with Mr. Stutt’s name is the charge referred to by the honorable member who last addressed the House and the other members who have spoken. No other charge has been made against that honorable member; and we have here this large volume, with four pages of the report, devoted to the consideration of the evidence, and followed by the conclusion reported in the 18th paragraph, and we are now asked,
in almost the terms of that paragraph, to express an opinion that the conduct of a brother member of the House in reference to this charge has indicated an undue influence of a Member of Parliament in the administration of the Lands department. Now, after all this trouble and investigation, what is the charge? It is no offence known to the law. Taking it in the worst aspect, it is a charge of bargaining with a person outside the House upon what terms the member should lend his influence to obtain a certain advantage for that person—Mr. Mills. An intention to commit a crime—if this were a crime—is not a crime; and, taking the charge in the very worst light, it merely amounts to an unfulfilled intention to accept a bribe in return for services to be rendered by the member. As has been stated to-night by the honorable and learned member for Dalhousie, correcting the honorable and learned member for South Bourke, it has never been presumed that money passed between these parties; and, according to the evidence, as admitted by the Minister of Railways, it simply results in a conflict of testimony, upon which, as the honorable gentleman himself says, the committee were wholly unable to utter a deliverance. It appears to me that materials of this kind are very insufficient on which to found a censure so grave as that which it is proposed to inflict on a member of this House. In fact, the charge resolves itself into the discussion of the probabilities of a conversation, or rather of negotiations, between two persons, which has resulted in nothing; which, indeed, has resulted, if in anything, in the fact of the person alleged to have agreed to receive a bribe doing all that he could against the interest of the person from whom he is said to have received it. And further, it results in this. The committee, although, I understand, they intend to suggest to the House that this corrupt arrangement was not carried into effect because more favorable terms were received from Mr. Mills' opponent than were offered by Mr. Mills, have neglected to avail themselves of all means of prosecuting that suspicion so as to satisfy themselves whether it had any foundation in fact or probability. There are one or two points upon which it appears to me that the honorable member whose character is affected by this report has reason to complain of the conduct of the committee. There is one slight indication—I admit it is very slight, and I do not wish to dwell upon it—in the 13th paragraph, which I think is apt to mislead the House to the disadvantage of the honorable member. The first sentence of it is in these words:—

"That this letter was written by a supernumerary clerk in the Crown Lands office, named Elisha Smith, a relative of Mr. Stutt, who was placed in the public employment by his influence, and who, as was ascertained on cross-examination, had been engaged in drawing up documents at the City Buffet, to be presented to the Crown Lands department in former cases."

When we remember that the purpose and object of the report is contained in the last three lines of the report, namely, the suggestion that undue influence has been used by a Member of Parliament in the administration of the Lands department, I think that the House, in order fully to understand the effect of the 13th paragraph, might have been informed by the committee that this relative of Mr. Stutt, who turns out only to be a distant connexion, was appointed a clerk in the Lands department some years before Mr. Stutt became a Member of Parliament. As it stands at present, I think that a person reading the report would infer that the Member of Parliament, after he became a member, used his influence to get a relative appointed, and that he employed that relative for the purpose of carrying on the connexion—the suggested improper connexion—with the Lands department. But this is not the fact. This relative was appointed some years before Mr. Stutt became a member, and it does not appear that Mr. Stutt adopted any improper influence in the matter. I merely point out this as something which has a tendency to mislead the House as to one of the circumstances connected with this case. There is another point in respect to which it appears to me that the honorable member has much stronger grounds of complaint; and I own I am surprised that neither the honorable and learned member for South Bourke, nor the Minister of Lands, referred to it in explanation, or in reply to the observations of the honorable member for South Grant (Mr. Stutt) last night. I was very glad to hear the honorable and learned member for Dalhousie state that he, at all events, as one member of the committee, had no part in the daily publication of the proceedings of the committee. I wish I could hear every member of the committee rise and make a similar disavowal, because it must be apparent to

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every member who considers the nature of the charge—the disgraceful character of it, and the lasting consequences which must follow from an unfavorable report of a committee of the Legislative Assembly, adopted by the Legislative Assembly—that it is really unjust that unfavorable impressions should be distributed about the country from day to day, concerning the character of an honorable member at a time when he has no opportunity of replying, especially when we know that the effect of those daily communications cannot by any efforts of that individual be afterwards entirely removed. This, sir, it has been stated has been consummated by the publication of the report of the committee. It seems to me that the House, as well as the honorable member, has reason to complain of the publication. The House is entitled to receive, in the first instance, the report of a select committee; the public are not entitled to it until it is communicated to Parliament, and Parliament thinks fit to publish it. In a case of this kind, where the honour of a member of Parliament is so deeply affected by a report, surely it is not merely contrary to the principles of common fairness as applied to that member, but it is not consistent with the respect which a committee owes to the House that their report should be published in the newspapers, and disseminated for several weeks before Parliament has an opportunity of considering the report, and deciding whether it would accept it or not. I can have no hesitation, for my own part, in voting against the motion of the Minister of Lands. I should feel myself justified in voting against it merely from the fact that the charge is an insignificant and a paltry charge. It is a charge upon which the committee avow that they have not been able to arrive at any judgment.

Mr. DUFFY.—No.

Mr. HIGINBOTHAM.—The Minister of Railways says there is a conflict of evidence, and the committee could not arrive at any decision; and I do not accept the concluding paragraph of the report, which seems to be a series of surmises or suggestions, as a judgment. A charge involving the character of a member is submitted to the consideration of a committee, and the committee, I think, are bound either to say—"We cannot arrive at a decision upon the evidence, parts of which conflict with other parts," or "We do arrive at a decision, and in our deliberate opinion, sitting in judgment, the member is guilty of certain misconduct." According to the Minister of Railways, the committee have not been able to arrive at that conclusion. They cannot decide upon the conflicting evidence; and, indeed, it would be very difficult for them to decide upon it, because, although Mr. Mills's statement is very positive, it is contradicted not only by the evidence of the member, but also by the evidence of the solicitor employed; and it is even discredited by the testimony of Mr. Mills's father-in-law, who states, I observe, that when Mr. Mills returned to the country he said not one word about any agreement signed by him, and significantly adds, "If he had done so, I would have mentioned it." So that not only is there a conflict of evidence, but there is discredit thrown on Mr. Mills's evidence by the testimony of one who certainly was no unfavorable witness to him. I am not at all surprised that the Minister of Railways should, in the face of this conflict of testimony, have felt some hesitation and difficulty in arriving at a positive judgment; and it is only a judgment that is worth anything in a question of this kind. I own—I fully admit—that the conclusion to which I should have come upon looking at the mere facts of the case, as elucidated in the speeches of honorable members, and by so much attention as I have been able to give to the report, is strengthened and encouraged by the feelings with which I approach this report altogether. I confess, and I hope I may be allowed to say it without personal offence to any member of the committee—I shall endeavour to say it in parliamentary language—that I view this inquiry with the utmost distrust. I believe that my honorable friend the member for the Avoca (Mr. Grant) committed a very grave mistake in allowing himself to be drawn into the motion for the appointment of the committee. We know the causes which almost drove my honorable friend into making the motion. I will ask the Minister of Railways himself if he believes, or can say, that he approached the subject in the spirit of a judge? I would almost consent to put it to that honorable gentleman as a personal appeal. I am quite sure that if he could relieve himself from any feelings of excitement in connexion with the subject, to which he has given so much attention and so much feeling—far too much feeling—I believe he would admit that he did not
Mr. JONES.—The Minister of Railways has dealt very freely with the ex-Minister of Lands, and I think it unfair that rebutting statements should be prevented.

Mr. HIGINBOTHAM.—As the Chief Secretary has asked me whether I think it is desirable to introduce the subject of the honorable member for the Avoca in connexion with this question, I must confess that I do not see how it can be separated from it, because it is the conduct of the Lands department that was the subject of discussion by the committee, and the honorable member for the Avoca was at the head of the department at the time the committee was appointed—at the time that all these transactions took place. I do not see how it is possible, even if the committee desired it,—of which, however, I see no indication in this report,—to exempt the honorable member for the Avoca (Mr. Grant) from censure, because, in charging certain honorable members with undue influence in the administration of the Lands department, as has been already pointed out, they charge the Lands department, and especially the head of that department, with either weakness, inefficiency, or a share in the corruption. I really think it is impossible to exclude that consideration altogether; and I confess I don’t think it desirable that one part of the subject should be discussed and the other remain untouched. So far as the Chief Secretary and the colleague who sits beside him (Mr. McDonnell) are concerned, I gladly separate them in my own mind from the conduct of some of their own colleagues in connexion with this subject; but, if there are others who do not shrink from the task of fixing a brand which may last for a lifetime on members of this House, I do not think it lies in the mouth of those honorable members to deprecate criticism on themselves. If honorable members will only turn to some portions of this report they will see indications that the committee, although they have reported only on two isolated cases, have not abstained from presenting to the public, for their judgment, materials, or supposed materials, which have nothing whatever to do with the conduct of either of the honorable members who are the subject of this report, and which refer to events long since past, and long since investigated and decided upon. If the Chief Secretary will turn to page 17 of the appendix to this report, he will find all the papers

Mr. HIGINBOTHAM.—The honorable member should confine himself to the question before the House.

Mr. HIGINBOTHAM.—It is unfortunate that when we are discussing the character of a brother member a little latitude is not allowed. The application of the strict rule of debate may perhaps really tend to promote what I believe is a very objectionable style of discussion, consisting of suggestions and indirect allusions rather than a plain straightforward discussion of a public question. I am sorry that your ruling prevents me saying what I intended to say, because I think I could appeal with some strength to the feelings of the committee whether they—whether all of them—were qualified to deliver a judgment upon a question which involves the personal reputation of a brother member of the House. But, sir, of course, I bow to your ruling. I will only say that I believe the purpose of the appointment of the committee has now been served, and that therefore it is unnecessary for the House to take any further steps to carry out the intentions and views of the members of the committee. Sir, my honorable friend, the member for the Avoca, is no longer the Minister of Lands. He has been driven from office, we all know by what means. We all know that it had long been the object of many persons in this community to drive that honorable member from office, and that many persons have not scrupled, in their desire to attain that object, indirectly to asperse his character as the responsible head of the Lands department. The immediate purpose of the appointment of the committee was, I think, served as soon as the honorable member ceased to sit on the Ministerial bench.

Mr. MACPHERSON.—I rise to order. I submit that the honorable and learned member for Brighton is not in order in alluding to the feelings which animated honorable members as to the late Minister of Lands holding office. I would ask the honorable and learned member whether he thinks it advisable to mix up the ex-Minister of Lands with the question before the House?
connected with what was known at the time—now, I believe, some four or five years ago—as the “moonlight survey”—Mr. Hopburn's case—set out apparently with no earthly object than to damage the administration of the Lands department upon a point on which the committee were not authorized to inquire, and upon which they have not given any opinion whatever. You cannot separate these things. If we are to give a judgment at all on the motion proposed by the Minister of Lands, we cannot shut out our own knowledge of what has been going on; and, although your decision, Mr. Speaker, prohibits me from referring to events prior to the appointment of this committee, I cannot, for my own part, shut from my memory the fact that during the time the committee was sitting, and since it has brought up its report, some of the members of that committee have publicly expressed opinions, in strong language, and have drawn inferences which seemed to me to be pointed only for one purpose—the damaging of the public character of the late head of the Lands department—and with only one object, so far as I can see, namely, to secure the position which they have taken, after expelling him, by addressing constituencies who are less acquainted with events and facts and characters than we in this House are.

Mr. LONGMORE.—No.

The SPEAKER.—I am sure the honorable and learned member will pardon me. I do think that it is not within the province of the present discussion to go into matters connected with the late Ministerial elections, or the other matters to which the honorable and learned member alludes. In strict rule the debate should be limited to the report which has been brought up by the committee, and the evidence upon which that report is founded. Beyond that honorable members should not go. It is with a degree of diffidence, in view of the general feeling which appears to prevail, that I call attention to this rule. But I feel it my duty to do so.

Mr. HIGINBOTHAM.—Sir, I sincerely bow to your decision, and I beg to assure the House that I have no intention to evade its rules. But I must say that the effect of this report is to pronounce a censure upon the Lands department, and to affect the public character of the person who was lately the head of that department. I hope I do not exceed the bounds of order in saying this, or in saying further that I don't believe any report of any committee on the Lands department can injure, in the slightest degree, the character of that honorable member, so far as it is known to and appreciated by all of us in this House. There is no honorable member of this House, I believe, who has attached to himself a larger amount of personal, I will almost say, affection—I would certainly say universal respect, even from those who differ from him in political opinion. Therefore nothing that this report can do can ever affect the character of my honorable friend in the estimation of us who know him. But it is different among those who do not know members of this House, who are unacquainted with the state of opinion and feeling in the House; and, consequently, I look upon the dissemination of a report of this kind, at an improper time, and before it could be known to and judged of by members of this House, and before their opinion could be expressed on it, as a great wrong done to that honorable member, as well as to the honorable members who are more directly affected. I have only to add that, for I express no opinion on the questions which have yet to come before us, confirms an impression which I have long had—that a committee of this House is not the most desirable body, or indeed a competent body, to investigate questions affecting the character and position of brother members of this House. These questions are questions strictly of a judicial kind. In this House we discuss semi-judicial questions of political law and practice, and our practice is very loose with regard to it. However that does not much matter, because it forms a part of the political battle which is always going on. But when you come to express an opinion on the personal character of a Member of Parliament, it is very necessary that the tribunal should be a competent one, free from all suspicion of bias and influence. I think that all recent experience, at all events, points to the conclusion that we should allow the character of members to be dealt with by their constituencies, and that we should not rashly intrust to a committee of this House the dealing with questions of such a delicate kind as those involved in this report. So far as the particular case in question is concerned, I do not hesitate to say that on the face of the report itself, as well as
those portions of the evidence brought before us, I find no difficulty in coming to the conclusion that the charge itself is one that the committee ought to have disposed of as soon as they knew what it was. They might have disposed of it in a couple of days—as soon as they knew that its merits were involved in a dispute as to a conversation between two persons, which resulted in no actual corruption, if corruption was intended. In view of the conflict of evidence as to the effect and character of that conversation, we shall be doing, in my humble judgment, a very great wrong to the honorable member for South Grant if we lead our sanction even to the modified proposition of the Minister of Lands.

Mr. BERRY.—Mr. Speaker, I feel some difficulty in addressing myself to this question, especially in the altered character that has been given to it by the honorable and learned member for Brighton. At the same time I think that, on a question of such magnitude being raised as is raised by this report, there would be a want of moral courage in any honorable member flinching from expressing his opinions, however painful it may be to him to do so, when he has arrived at a clear conclusion on considering the evidence upon which the report is based. And as a preliminary, I will respond to the request of the honorable and learned member, and say, as a member of the committee—as was said by the honorable and learned member for Dalhousie last evening—that I gave no hint or information whatever to the press as to the proceedings of the committee, the evidence taken, or the report that was contemplated. I should be very happy to hear all the members of the committee, who may address the House to night or hereafter, make the same statement. I think the committee have a right to complain somewhat of the attitude of honorable members opposite. The committee seem to be on their trial. They are charged with grave political offences, when they have been simply carrying out the wish of the House that appointed them. Honorable members will perhaps recall the circumstances under which the committee were appointed. Grave charges were raised, and these were met by counter-charges; declarations were made on both sides, and a police court prosecution was initiated by the Attorney-General of the day against a certain person for perjury; and so grave did the circumstances of the case become, and so abundant were the charges of corruption, in various forms, against the department, that the late Minister of Lands himself moved for the appointment of this committee. So strong was then the party now sitting opposite—the party with which I was then connected—that when it was proposed to place the honorable member for West Melbourne (Mr. Langton) on the committee, a division took place, and his name was rejected. There was no slurring over the appointment of the committee. The appointment was made by the honorable members who now complain of the action of that committee. I think those complaints are scarcely fair. I now speak more as a member of the House than as a member of the committee, because, from circumstances of a business character, I was not able to attend the committee as constantly and as regularly as I desired; but I have, to a very large extent, supplemented my attendance by a careful reading of the evidence. I may here say that my experience of select committees of this House, no matter how judicially inclined they may be, no matter how closely they may apply themselves to the particular question which they wish to elucidate, goes to endorse what the honorable and learned member for Brighton has said, that a select committee is not a good tribunal to try a case. Members without legal training are allowed to put questions, very often irrelevant, just at a moment when the examination of a witness has arrived at a critical stage, and information on a material point might be elicited, and thus the thread of examination is disturbed, and, once disturbed, it is difficult to get it back. Therefore, apart altogether from the political bias that may naturally be supposed to exist, I do not think a select committee is the best tribunal for dealing with questions involving the character of members of this House. But what I wish to call the attention of honorable members to is that, if they think, after a careful study of the evidence and the report, that there was disclosed before the committee —although no individual cases could be proved—a system of undue influence used simply to achieve a purpose, that purpose being their own individual gain, they ought not to flinch for any party consideration whatever from saying that that is their conviction. Now if I refer to the case of the honorable member for South Grant (Mr. Stutt) it will be more to illustrate this position than
to endeavour to fix any particular charge upon that honorable member. I quite admit that it is always a painful duty—one that I hope will scarcely ever be repeated as long as I am a member of this House—to inquire into the conduct of members of the House. I have never seen any good come from it. I have noticed frequently in connexion with such matters a considerable party bias, and that the action of the House has been dictated more by the feelings of the majority for the time being than by feelings of strict justice or equity. This is not the first time that I have had to stand on the floor of this House and protest against injustice being done to a member of the House by a majority that would not listen to reason at the time, and thus it is that I have no sympathy with any party which uses the power of a majority to crush an individual member of the House. I also think that the publicity which is given, and which appears to be so much regretted by honorable members opposite, is really the only essential good that we shall get out of this inquiry. An inquiry of a cognate nature to this was distinctly made public. The press were admitted to the sittings of that committee. It was made a condition of the appointment of that committee, in the interests of justice and equity, and as a matter of fair play to the honorable members charged, that the press should be admitted; and even this committee had under their consideration, at their first meeting, the propriety of admitting the press. I don't think the honorable and learned member for Brighton would say that the committee would have done wrong in admitting the press. Therefore I see no injustice—nothing further than a technical objection—to the publication of the evidence or the proceedings of the committee, always supposing that what is published is correct and not garbled. I have heard no charge made of any false statements being published. ("Yes.") I can only say on that part of the question that it was open to any member of the House, if a breach of privilege had been committed, to bring the publisher of the particular newspaper to the bar of the House. It is scarcely fair to make a charge against the committee when they were powerless. No duty devolved upon them to prevent publication more than upon any member of the House.

Mr. MACKAY.—Who gave the information?

Mr. BERRY.—A select committee meet in a lobby of the House. Papers are left on the table. Draft reports are printed and left on the table. Who is to say that messengers or any one else might not take the documents, and pass them over to the representatives of the press? It is not fair to assert that some member of the committee gave the information. I can see ways in which information could be got outside any member of the committee. But I do not wish to be diverted by this point from considering what I think is really the valuable part of this inquiry. Now, briefly, what are the facts of the case? It is in evidence that Mr. Mills, a perfect stranger to Mr. Stutt, was met at the Lands-office by a person named Hadden, who was living in Mr. Stutt's house; and that he, a stranger to Mills, recommended Mills to Mr. Stutt, to take up his case. There can be no doubt that Mr. Stutt did take up the case in good faith at first, intending to prosecute the matter to the best of his ability, and to obtain the land for Mills; and we may either believe or disbelieve, just as we believe the one witness or the other, that a promissory note for £100 was given or not. But I may mention, as a great deal of stress has been laid upon the point, that in the early part of the inquiry, when Mr. Stutt was cross-examining Mills, he as much as admitted that such a conversation and such a document had passed between them, but what his statement, or rather his cross-examination of Mills, tended to was that the £100 was for legal assistance, and not for himself.

Mr. HIGINBOTHAM.—He said so last night.

Mr. BERRY.—But in his written statement before the committee he said nothing of that. He denied altogether, and so did Mr. Shuttleworth, that there was any £100, either for law expenses or anything else. Now Mills keeps constantly to one statement. He never varies. When asked in cross-examination whether the promissory note might not have been for legal expenses, he says—"No." He keeps constantly to one plain simple story. I have no doubt in my own mind, from having heard the witnesses, noticed their manner, and well considered the exact nature of the evidence, that Mills told the truth in that matter. And I have no doubt that, up to that point, it was the bona fide intention of Mr. Stutt to do his best to obtain the land for Mills. Another circumstance of
the case must not be forgotten. It is admitted that McNeill really was a dummy selector—that he was the party whom the Lands department itself ought to have been able, by its own inquiry, to have found out, and taken the land from. But he succeeded in getting the land against the honest man, who wanted to use it properly. Now I ask honorable members opposite how was it that the dummy got the land? How was it that the man who wanted the land, the man who came to Melbourne half-a-dozen times—a plain honest citizen, whose neighbours of all grades declared, by documentary evidence, to be a thoroughly respectable and reliable man, a man who would have used the land properly—was defeated, and the other man succeeded? And how was it that Mr. Stutt all at once changed his allegiance from the honest man to the other side? Now, to elucidate this, you must remember that it is stated in the declaration, I think, of Mills, that Mr. Stutt told him that Tobin and McNeill were going to give two other members of this House £500 to get the land for them, that they would be too strong for him, that a prosecution would be instituted, and that he had better withdraw. It should also be remembered that thereupon he was induced to sign a letter written by Elisha Smith, at the dictation of Mr. Stutt, withdrawing his declaration as to McNeill being a dummy. Now I ask, with regard to Mr. Stutt, who in the first instance honestly intended to get Mills the land, when he found himself compelled to withdraw from the arrangement, and allow to be given to the dummy what ought to have been given to the honest man, why did he go any further? Why should he have gone any further?

It appears that, after signing the letter at the City Buffet, Mills went home, and he states in his evidence that, when he related at home what he had been induced to do at the City Buffet, his wife and father-in-law were up in arms against him, and in consequence there arose a desire in his mind to stop the presentation of the letter written at the City Buffet, and he communicated with Mr. Stutt accordingly. Now I say that those who wish to substantiate the fact that there was no undue influence—no system by which certain members could obtain the decision of the Lands department in favour of their clients, altogether irrespective of the justice of the case—should look closely at this evidence, and should be prepared to treat it in a far more open and comprehensive manner than it has been treated yet. Taking that line of argument, I ask, on the supposition that the conduct of Mr. Stutt to Mills was fair and straightforward in the first instance, why did he abandon the case of Mills? How does he account for his conduct in connexion with the writing of that letter at the City Buffet, and the subsequent circumstances which resulted in McNeill getting the land, and Mills, after the expense and trouble he had gone to, being deprived of justice? That is the plain issue which is really raised by this inquiry. If a matter of this sort occurs once, we may fairly take it as illustrative of what may occur at other times. It is particularly difficult to prove such cases. Who is to prove them? Who is to come forward and give evidence? It is far more easy to find fault with the way in which the committee prosecuted the inquiry than to suggest how to improve upon it. Now the honorable and learned members for Brighton and South Bourke admit that the report is substantially based upon the evidence. The latter stated that he could not find any but trifling objections to the report, and but little trace of animus in it. If that be so, and no one has attempted to prove the contrary, it will be a very serious matter for the majority of this House to ignore the report. I may agree with many honorable members opposite that these inquiries are injudicious, painful, and embarrassing. But that was a matter for consideration when the committee was appointed. When the committee has done its duty to the best of its ability, and the question is fairly in the hands of the House, I don't think it ought to be slurred over; I don't think an attempt to attack the committee should be made instead of dealing with the evidence. I think the question ought to be looked at as a public duty, altogether independent of party considerations, and with the feeling that, if the committee is not judicial, this House is. I think, if the question is dealt with in that spirit, scarcely any honorable members can come to a different conclusion than that undue influence did exist. I don't say who was to blame. I don't wish to blame any one. I am quite willing, now that a change has taken place, and a better order of things inaugurated, to allow past mistakes to be forgotten. But who forced on this discussion? There were, possibly, many reasons why the result of this.
inquiry might have been fairly left to have its influence on public opinion through the columns of the press. But something more was wanted than the laying of the report on the table, and publishing it through the press, so as to allow everyone to form his own opinion of the justice of the report, as based upon the evidence. The responsibility was fixed upon certain honorable members of submitting a distinct resolution to the House. That having been done, it is too late now to regret that the question has been raised. Before I conclude, I would like to say a word or two on the statement of the honorable and learned member for Brighton, that this is a trifling and insignificant charge. If it relates simply to the conduct of the honorable member for South Grant, it may be possible to classify the charge as trifling and insignificant; but taken in its larger aspect, as affecting the management of the Lands department, and disclosing the prevalence of a system by which influence can be brought to bear in the department otherwise than in the ordinary direction of justice and fair play, it certainly cannot be trifling or insignificant. And even if it applies merely to any honorable member charged with receiving money for obtaining certain material advantages for any one in this community, through his influence in the department, I scarcely think it trifling or insignificant. I have had considerable difficulty in my own mind in determining whether honorable members should be precluded from acting as paid agents—general paid agents—either in the Lands-office, or anywhere else. But I certainly think, with the Minister of Lands, that, if members act as paid agents, they should advertise themselves as such, so that the Minister, and the department, and the general public, and members of this House may know who are paid agents. If they do act as paid agents, and at the same time deny that they so act—keeping up an equality with other members of this House, and still carrying on the same business—if I have a suspicion, as I have something more than a suspicion, that not merely solitary members, but a number of members banded themselves together, and did so act, then I cannot consider, in the interests of the country, that this is a trifling or insignificant charge. No one is more ready than I am on all occasions to admit the vast amount of good which the late Minister of Lands has done in this country, the great amount of settlement which has taken place under his Land Act of 1865, and the generally thorough character of his administration of the Lands department; but I say that honorable members who wish to give a clean bill of health to the department must meet the question now before them in a different way to that in which they have met it, and explain, if it can be explained, the whole course of procedure by the honorable members whose names have been mentioned, and by the department, in this particular case of Mills and McNeill.

Mr. ROLFE.—I feel great difficulty in understanding the question as put by the last speaker, inasmuch as he has mixed up the charge against the honorable member for South Grant (Mr. Stutt) with the question of the administration of the Lands department. So far as I have been able to ascertain, no case has been brought before the House which fixes the Lands department with anything. I hope that honorable members who may yet take part in the debate—and I address myself particularly to the honorable and learned member for Dalhousie—will, if they can, adduce some definite case of the administration of the Lands department being unduly influenced by a Member of Parliament. If some special cases were submitted, honorable members could make up their minds one way or the other.

Mr. McCAW.—For the reason that the challenge has been thrown out by more than one member of the committee that all the members of that committee should clear themselves of the charge of conveying information relating to the inquiry outside the House, and for that reason only, I feel it incumbent upon me, as a member of the committee, to rise and state that to no one, neither to the press nor any one else, did I communicate information as to what transpired in the committee. I am certainly surprised at the inuendo thrown out by the last speaker, that the officers of the House should do anything of the kind. The officers of the House have long been in the employment of the State; they have not been subjected to such a charge before, nor do I think they should be subjected to it now. Still honorable members will not be much surprised at information being conveyed outside when I state that the last time I attended the committee, which was the day on which the draft
report was first submitted for consideration, I found in the room at least one member of the House who was not a member of the committee, with a report in his hand, discussing the merits of it. Those gentlemen were under no pledge of secrecy in the matter, and therefore it is not to be wondered at that the contents of that report became known outside. With respect to the subject immediately before the chair, the charge against the honorable member for South Grant (Mr. Stutt), all that I can say is that the worst verdict which can be pronounced is the Scotch verdict, "Not proven." With regard to the question of the £100, there are two witnesses against one. Mills states in his evidence that the promissory note was drawn out by Mr. Stutt, and handled by him to Mr. Shuttleworth. This is denied both by Mr. Stutt and Mr. Shuttleworth. But supposing the Member of Parliament should not be believed—because it is the fashion in this House, and it is an unfortunate thing both for the House and the country, for a member to disbelieve what another member says—still there is one witness against another, the disinterested Shuttleworth against the interested Mills. Under these circumstances surely the prisoner—I mean Mr. Stutt—should get the benefit of the doubt. Taking that view of the case, I feel bound to vote against the motion. I trust that an inquiry of this kind will never take place again. No good can come of it. If there is no other tribunal to appeal to in such cases, let a member be left to be dealt with by his constituents.

Mr. WRIXON.—Mr. Speaker, I must say that I feel greatly embarrassed in endeavouring to deal with the important case now before the House, because I am oppressed by the weight of the truth that we are not now considering any general maladministration in the Lands department, nor any fear of the general growth of corrupt practices, but we are narrowed down to one particular issue, concerning one particular member, with whose conduct we are specially called upon to deal; and we all feel bound not only to extend the most truthful regard and consideration to the honorable member's case, but also to give, as far as we can, a favorable view to the charge alleged against him. In the few remarks which I propose to make I shall endeavour to point out the difficulty which I feel, and possibly some member of the committee who may follow me will be able to suggest an answer. And here I must be allowed to say that I think the House is very much indebted to the committee for the labours which they undertook, and for the careful manner in which they discharged the painful duty cast upon them; and I fully concur with the honorable member for Geelong West (Mr. Berry), that if we meant to object to an inquiry of this kind, or to express our distaste to it, the proper time to do so was when the committee were appointed; but having appointed the committee, having forced upon them the duty of inquiring into this case, we were bound to give them every latitude, and to respect the conclusions which they have set before us. That being so, and feeling this indebtedness on the part of the House to the committee, I must add that I think the House itself is scarcely in a position to investigate this charge. I desire to give every weight to every thing the committee have found, and to the summary of the evidence admitted by the honorable and learned member for South Bourke to be correct, but I feel that really the House is incapable of dealing with, analyzing, or giving a satisfactory judgment on the mass of evidence presented to us, which would take lawyers—men experienced in this work—a long period of time to master, and which would require considerable ingenuity and skill to draw conclusions from. More than this, different conflicting arguments have been forced upon us, and we are expected to draw from this evidence conclusions more accurate than the committee themselves have drawn, and that without the advantage of seeing the witnesses, of observing their demeanour, and of noticing the small contradictions which press themselves upon the observation of those before whom the witnesses are brought. Having said this much, let me observe that the question really involved in this case is whether the man Mills told lies. If his statement be true, the statement which we heard last night from the honorable member for South Grant (Mr. Stutt) cannot be correct. There is great difficulty in understanding why Mills, against whose moral character there is no imputation brought that I have been able to gather, should set about inventing a long tissue of lies such as we must believe he invented if his story be not correct. What object could he have in doing so? Why he should be pressed to resort to such conduct is not easily seen,
whereas, of course, the honorable member who is accused has a direct interest in contradicting him. I do not see the motive or object for Mills inventing all the long story which he told the committee. What forces the conclusion home to my mind that Mills cannot be inventing is the peculiar position which the honorable member for South Grant has himself taken up, and the admissions he has made. When we are asked to disbelieve what Mills has said, we cannot shut our eyes to what the honorable member for South Grant has himself admitted. The great point seems to turn upon this £100. If there was a bargaining on the part of the honorable member for South Grant for £100 from the man Mills in case he got the land, it would certainly seem to substantiate the charge against the honorable member. If there was not, the whole thing falls to the ground. I find from the evidence that the honorable member for South Grant cross-examined Mills with regard to his statement concerning the £100. I will read a portion of what transpired in this cross-examination:

"Did not you say you wanted to see Mr. Shuttleworth, the solicitor, before you went away, and if I did not go with you, you did not know where to find him; you knew his office, but he would be gone from there, and, if I knew his private residence, you would be very much obliged to me to go to his residence, to say that you would put £100 at his disposal to get the land—did you say that?—No.

"Do you mean to tell the committee that this £100 was to be given to me?—The £100 was to be given to you.

"And not the solicitor?—Not the solicitor.

"What was the solicitor to get?—He was to be paid his expenses to be sure.

"Was not that £100 that was spoken about in the cab going to Mr. Shuttleworth's house—was it not to be given to Mr. Shuttleworth, or any other solicitor that would take up the case, for you would fight it till you spent the last farthing you had in the world?—No, the £100 was to be given to you, but it would not do to have it drawn in your name, but it must be in Mr. Shuttleworth's name.

"Was that £100 that you said that you would give to me—did not you say you would give me an I.O.U. or an acceptance, or anything I liked for the £100 merely for law costs?—Nothing to do with law costs at all; it was simply for Mr. Stutt for his trouble in securing me the land."

Here then the honorable member for South Grant admits this conversation about the £100, and he throws out the view, which indeed he distinctly stated more in detail last night, that the money was to be given for law expenses, and kept by him in trust for the purpose of defraying those law expenses. But I cannot see how £100 was to go in law expenses, when Mr. Shuttleworth said that £5.5s. was all his expenses, or what reason, meaning, or logic there was in Mills handing over to Mr. Stutt £100 to be kept by him in trust for the solicitor. It seems to me improbable and unreasonable. I own that—with every desire to deal fairly with a question in which the character of a member is involved—I cannot, against the distinct allegation of Mills, accept that explanation of the conversation about the £100. The matter does not rest there. There are other points in the evidence (which is admitted to be fairly summarized in the report) which all seem to hang together, in many small and minute portions corroborating the statement of Mills. For instance, the introduction of Mills to Mr. Stutt by Hadden; his being brought to an hotel kept by Mr. Stutt; the admitted interest which Mr. Stutt took in the matter; the going about in cabs, and the writing of letters—all this seems to corroborate the statement of Mills, and to add to the improbability of the view put forward by the honorable member for South Grant. Unless we can see our way clear to accept the honorable member's explanation, that he was prompted merely by good nature—that he desired to take this trouble merely for Mills's sake—I for one can see no escape from the conclusion that the version of the matter which he has given to us is not correct. Therefore, so far as that goes, I must give my support to the report of the committee. I believe there was this improper interference in this land negotiation on the part of the honorable member for South Grant. I don't mean to say how far we are entitled to mark that interference—whether we are to regard it in a criminal aspect or not. If the practice has sprung up of honorable members assisting persons at the Lands-office in securing their land, it will be a question, which no doubt will command the attention of the House, as to how far we are entitled to fix upon one particular case, and deal with it with exemplary severity, or attach to it a complexion of peculiar guilt, if we believe that there are several examples of the same kind. But that question is somewhat different from the one before us, namely, whether we believe this report of the committee. If a practice of the kind to which I allude, which I believe to be an unfortunate one, has grown up, I would be
anxious to extend any consideration to any individual who may have fallen in with that practice; but we are asked to say whether we believe the committee or not. Do we think the assurance of the committee is true or not? We are not asked to pass sentence on Mr. Stutt.

Mr. MACKAY.—We are asked to brand his name.

Mr. WRIXON.—What course we may adopt is a matter for future consideration, and I have sufficiently indicated my view in reference to it. But we are asked now whether we believe the report of the committee or not; and I must say that I cannot hesitate to accept it as far as it goes with regard to the relative accuracy of the statement of Mr. Mills or that of Mr. Stutt. Where I cannot quite follow the report is in the conclusion that the evidence shows a case not merely of interference but of influence on the part of Mr. Stutt. When we are asked to declare not merely that his unlawful interference is proved, but also the influence of his unlawful interference with the Lands department, we are asked to affirm something which I do not see that the evidence supports. I do not see that the honorable member for South Grant did successfully exercise any influence on the Lands department in this matter. The professed object for which he was retained he certainly did not carry out; on the contrary, he seems to have been checkmated by some stronger influence. It seems to me that the honorable member did interfere, but I cannot see any evidence that he interfered successfully, or that he gained the object which he is presumed to have had in view. Therefore, as far as that portion of the report is concerned, I feel myself unable to vote for it. I desire to make an observation upon one other matter in connexion with this subject. The Minister of Lands stated last night that he entirely endorsed the explanation which Mr. Stutt enunciated in his written defence, namely, that any member of the House is fully entitled to act as an agent in any Government department, professionally. I do not wish to censure any member of the House who may look at the matter differently from what I do, but I must say that I completely dissent from that view.

Mr. M'KEAN.—I said, provided he held himself out to the world as such.

Mr. WRIXON.—I am afraid that the explanation of the Minister of Lands does not carry the matter much further. When a gentleman is elected a member of this House, he is, by his position and by the trust reposed in him by his constituents, gifted with a peculiar power and authority, and has a right to command a certain amount of influence in all the Government departments. He is entitled to that, and I hope that a Member of Parliament will always, in this country, be able to exercise it. If he exercises that power and influence as a trustee, on behalf of the constituents he represents, and of the people at large, of whose Legislature he is a member, he is so far performing legitimate and fair duty for them—he is doing a work of which any member of this House may well be proud. While we should resent an unlawful use of the privilege and authority of a member, we need not be in the least afraid of affirming that no member need feel any hesitation in exercising to the full that lawful influence and authority for securing the legitimate and fair representation of the wants of his district; but the moment it passes beyond that, and comes to be mixed up with private business—the member using his influence as a source of profit to himself—then I must say that, in my judgment, that is an abuse of the power intrusted to a member, and a practice replete with danger to the State in every aspect. It is necessarily demoralizing to the electors, who will be apt in time to return none except those whom they will be able to make useful in every respect as agents; and not only will it demoralize the electors, but it will inevitably in time, in any country which adopts the practice, demoralize the Government, by laying it open to a solicitation as much more pressing, active, and persistent as are all the efforts which men direct when prompted by self-interest as compared with those prompted by a mere regard for the sentiment of duty. If members are employed to interfere in the Government departments for their constituents, not merely as a matter of duty, but as agents paid for their services, I think that you take the best means for securing a permanent source of deterioration to the Government of the country. Moreover, such a system would tend to sap wholly the principle of public and political morality. Sir, we have contended long and vigorously for the rights and privileges of this House, for our right to control the public money, and to assert the position which the people's Chamber is entitled to occupy. That is a struggle with which every intelligent man
will heartily sympathize; but I must confess that all the watchwords of that struggle would ring with a strange hollowness to the ear, if, connected with the securing of the victory for which we are contending, the power and influence of members is to be more and more aggrandized in order to be used for their own advantage. I am, therefore, unable to agree with the view thrown out by the Minister of Lands; but no doubt there are some members who will agree with him, and we may be slow to condemn a member merely because we find against him a case of interference in a Government department. The question now before us, however, is whether the statement in the report under consideration be true; and, as far as interference is found against the honorable member for South Grant, I must say that I think it true.

Mr. Mackay.—Sir, I will not be second to any member of the House in reproving a system by which members shall go to Government departments and use their influence as members in connexion with the transaction of any business in those departments, and thereby secure a result which otherwise would not be obtained. I think a very wrong system has grown up, and it has grown up in consequence of the neglect of Ministers to attend to their departments properly—to attend to the letters which are sent to them, and to pay as much regard to the visits of the public as they would to those of any Member of Parliament. In consequence of that system honorable members are required at times to transact business for their constituents, which is generally looked upon as an honorable commission. But when a member finds that the peculiar character of the commission trenches upon his private time, subjects him, perhaps, to outlay of money, and he begins to think that he ought to be repaid for his time and trouble—and probably for the expense which he incurs—he approaches very delicate ground indeed. I do not wonder that many members of this House, finding their time greatly taken up by applications from their constituents and others, and finding themselves subject to various expenses by the services demanded from them, have begun to consider why they should not make a trade or profession of looking after the interests of their constituents. The whole question really narrows itself to this—Are we to recognise such a profession as Members of Parliament attending at the public offices, and transacting business on behalf of the public for fee and reward—making the system, in fact, an occupation by which they may gain their livelihood? I will defer a consideration of that question for the present; but honorable members will see that it underlies the whole of this inquiry, and the whole practice against which the inquiry has been directed. As regards the particular case before us, in which the honorable member for South Grant (Mr. Stutt) is alleged to have used undue influence at the Lands-office, we find that there is a conflict of testimony between the honorable member and a man named Mills. We have had the character of Mills vouched for on all sides. The honorable and learned member for Belfast talked about Mills being a man of unblemished character; other members have endorsed that view; and the report has a whole paragraph devoted to the estimation in which he is held by the people among whom he has lived for many years; yet this estimable gentleman, of unblemished integrity, offers, according to his own admission, to give a valuable consideration to a Member of Parliament to get him to use undue influence on his behalf. Not only that, but this pattern of integrity is actually induced to write himself down a liar—to brand himself as a public perjurer. I don't want to bear hard on Mr. Mills, but I ask honorable members to discount all the glowing characteristics which have been attributed to him by the remembrance of these facts. When they come to weigh the credibility of Mills, let them remember these things, and, at the same time, let them give him every advantage which he can claim from the statement that he was alarmed, and that he was compelled to put his hand to a document which branded him not only as a perjurer but as a subornor of false evidence. Let them give him credit for having been intimidated into such a course of action; but surely that will not weigh against the testimony of an honorable member of this House who has chosen to resort to certain practices which I don't myself very much admire. What particular reason is there why we should accept the testimony of Mills in preference to the testimony of the honorable member for South Grant? It has been asked—What had Mr. Mills to gain? Why he had to gain that for which he ventured at first, that for which he offered to give £100.
Mr. DUFFY.—No; the Crown grant had issued before.

Mr. MACKAY.—Does the honorable and learned member mean to tell me that, if this inquiry were carried to the result, Mr. Mills expected the Government would not cancel the grant? Does the honorable and learned member mean to tell me that Mills did not stand in the light of an injured man, and that he expected to get the land which he alleged McNeill had unfairly got, as a dummy? If he could have substantiated his charge, would not Mills have got the land, and would he not have had vengeance on the honorable member who prevented him from getting the land in the first instance? Returning to the question of the credibility of Mills, we find that he signed a document, but he did not know what the document was. He did not know that it was an acceptance, but he had a pretty strong notion that it was.

Mr. DUFFY.—He was ignorant.

Mr. MACKAY.—He was very ignorant when it suited him. He did not know how to ascertain whether it was a promissory note or acceptance, but he knew that it was not a cheque. He tells the committee that he hands this document to Mr. Shuttleworth, the lawyer. Mr. Shuttleworth directly contradicts him—directly contradicts this man, who brings a charge against a member of the House. Looking at the balance of testimony and the question of credibility, I think that the committee ought at once to have said—"We cannot accept this man's statement." If they had properly consulted their own intelligence and their sense of honesty in public men, they ought, when they found a witness going to this extent, to have ordered him out, and not listened to a single word more he had to say; they ought not to have continued a fishing inquiry, to see if something could be ascertained out of the evidence of a man who had been proved to have stated what was not true. Allow me to allude for one moment to the publication of the proceedings of the committee. I appreciate as highly as any member of the community the advantage of publicity, and I think that when public bodies hold their proceedings in secret it is very narrow-minded on their part. Nothing can excuse that course except there is a clear public benefit to be gained, or a fear of doing an injury to somebody. Very often, when fears are entertained that publicity will do an injury or defeat the ends of justice, they are wholly illusory. I think that committees of this House would do well to have all their proceedings public—that is, that such publicity should be given to their proceedings from day to day as will allow of fair reports being published. But I ask honorable members who have tacitly lent their countenance to the system of publication which has been adopted in this case, what they think in their own hearts and consciences of a system of publicity which is not fair or honest, but which is injurious as well as unjust? By what strange circumstance did it happen that all that went forth to the public was something calculated to damage the character of the honorable member for South Grant (Mr. Stutt), and that there was no publicity to anything tending to exculpate that gentleman? The honorable member for Geelong West (Mr. Berry) has attempted to explain the matter by saying that the messengers, porters, and others about the House may have conveyed the information to the public. I will give the honorable member the advantage of that statement; but he has placed himself on the horns of this dilemma—that the committee must have conducted their business in a most careless and disgraceful manner.

Mr. BERRY.—The committee were asked individually to repudiate a charge made against them of having supplied reports to the press, and I simply pointed out that the information might have reached the press without the aid of any member of the committee. Printed draft reports were laid on the table; strangers entered the committee-room; and it is possible that members themselves got the documents, or any messenger of the House might have done so. I have yet to know why members of the committee are alone to be charged with dishonorable conduct, and that the moment it is suggested that a messenger may have done the thing complained of honorable members are to rise with great indignation to defend the messengers of the House.

Mr. MACKAY.—The honorable member has directly corroborated every word I have said, and has, if anything, intensified the force of my remarks. I repeat that, if the committee conducted their business so carelessly that the public could pry into their proceedings, they are very much to blame; but it is a most extraordinary and curious circumstance that
the persons who did get the information should have given to the world evidence all on one side.

Mr. DUFFY.—One of the reporters has just sent down a memorandum stating that, in several cases, the witnesses themselves, after they left the committee-room, informed the reporters outside what evidence they had given.

Mr. MACKAY.—I am glad that, as we go on, we get more explanation of the matter. Allow me to say that I am not indignant about the messengers or any body else, but what I object to is the attempt to sheet home to such persons the onus of giving publicity to the proceedings of the committee. The explanation just given by the honorable and learned member for Dalhousie may account for the publication of portions of the evidence, but it does not account for the publication of the report of the committee before it was laid on the table of the House. How can that proceeding be justified? The House delegated to a number of its members the duty of inquiring into, and reporting on, certain matters, and by what right do they hand over their report to any body before they present it to the House which clothed them with the power to draw up the document? With all my respect for the press, and my belief in its power, I think that some honorable members forget their position, and the dignity of the House, when they come within the shadow of the press, and condescend to practices which they ought not to do. The House ought to have taken this matter up at the time, to have braved everything in the shape of outcry, and to have brought to the bar any persons who offended against the privileges of the House by the publication of the evidence taken before the committee. I will dismiss this part of the subject. We were asked how was it that, after all, McNeill got the land. That was echoed by the honorable member for Geelong West (Mr. Berry), and cheered by many members on that side of the House. If the honorable and learned member for Dalhousie, or the present Minister of Lands, had been at the head of the department at the time, neither of them could have taken any other course than that which they reprobate so strongly. What were the circumstances? A man had come forward and made a charge of dummyism against another man, but he had afterwards eaten his words—put his hand to a document which stated that the charge was false. What other course had the department open to it but to accept the self-convicted statement of the man who had branded himself as a perjurer, and allow the man who had the land to remain in undisturbed possession of it? Why should honorable members condemn the administration of the Lands department for this? I now come to the most important part of the whole question. It matters not to me whether Mr. Stutt got the £100 or not, save that when a gentleman receives money for transacting certain business for his constituents or others, it does not concert with his dignity as a member to palter and equivocate with the truth. So far Mr. Stutt has lent some countenance in his evidence to the fact that there was some negotiation with Mills about the £100. Of the true nature of that negotiation neither I nor any other member of the House knows anything. All I know is that I have a moral conviction on my mind that there was some mention of £100 for some purpose. Had the honorable member come forward boldly, and said that he was promised £100 for his exertions, including the lawyer's expenses or not, as the case might be, I would at once have said that he had done no more than others. Putting the deepest dye upon the charge which is made in the report of the committee, it is that the honorable member for South Grant has accepted £100 to use his influence at the Lands-office. We all know that honorable members have accepted money for services at the Lands department. I would ask the House to remember that some time ago the honorable member who now occupies the position of Minister of Lands, and who has arraigned the honorable member for South Grant at the bar, confessed, in his place in the House, having received a sum of money for professional services in connexion with the Lands-office. I do not intend to reflect in the slightest degree upon the Minister of Lands. I do not think for a moment that the honorable gentleman would sell his influence, or that he would willingly be guilty of a dishonorable act; and I believe that, in accepting money for professional services at the Lands-office, he did not consider that he was doing wrong. But I fail to understand the difference in principle between Mr. James McKean, an honorable member of this House and a solicitor, taking money for his professional services at the
Lands-office, and Mr. Stutt doing the same thing. I fail to understand how a profession can allow the employment of an honorable member’s influence, if that influence cannot be employed by an honorable member who does not belong to a profession. I cannot understand the casuistry which would see evil in the one case and good in the other. To my mind it is a most extraordinary circumstance that an honorable member, who is the first member that has confessed to receiving money for going to the Lands-office, should prosecute another honorable member, not for having received money for his services at the Lands-office, but on suspicion of having done so. When we contrast those two things we shall realize the utter hollowness of the sincerity of this tirade against a system which I at once denounce as unworthy members of the House. I should like to see some standing order or rule adopted by which members should be precluded from in any way using their influence as Members of Parliament to get money in any shape or form. But we must remember that if the honorable member for South Grant did receive any money, or was in treaty to receive it, he at all events had a very good precedent to go by. Holding this view, I come to the conclusion that I shall not vote for a resolution which will brand the character of an honorable member—that I cannot vote for a sentence of condemnation which I do not think is deserved.

Mr. T. COPE.—As a member of the committee, I think it necessary to state that I was no party to supplying the newspapers with any report of the proceedings. On one occasion I was very much surprised to see my name figuring in the newspapers as being about to bring forward a certain resolution in the committee. I had mentioned to an honorable member that it was my intention to do so, but how the circumstance got into the newspapers I cannot tell, because I never mentioned the subject to any other person, and the honorable member declared to me that he did not give the information. My name was mentioned last evening in connexion with the witness Hadden. The first time I ever saw the man in my life was on the steps of the Lands-office. Whether he was introduced to me or I was introduced to him I cannot say, but he told me a deplorable tale of a grievance under which he laboured. It appeared that he had selected a piece of land on a certain run, and, in his ignorance and simplicity, he arranged with the squatter to exchange it for another piece. An agreement was drawn up in writing between the parties; Hadden was simple-minded enough to show it to a certain gentleman who occupied an official position under the Government, and who made use of the document against him to forfeit the land. According to his statement to me, the man, with his wife and family, was bundled off the land either by a sheriff’s officer or a Crown lands bailiff. Hearing the man’s statement I went with him into the Lands-office to ascertain if it was correct, and I there found declarations made by the contending parties of such a character that, had the matter gone into the Supreme Court, I have no hesitation in saying some of the persons concerned would have been landed in Her Majesty’s goal. With reference to the witness Elisha Smith, I may state that when he was asked why he, being a clerk in the Lands-office, undertook the business of letter writing, he said that he did so in order to earn a little extra money, his salary not being sufficient to maintain his wife and five children. I was not present when the report was adopted by the committee, or I should have objected to it as being unfair—it does not give both sides of the evidence. With reference to the £100, I may mention that Mills and his father-in-law (Mr. Aldworth) stated, in their examination, that they had a certain conversation at Menzie’s Hotel with Mr. Stutt about the £100, but their evidence is distinctly contradicted by Elisha Smith and another witness, named Walters, who were present during the whole of the interview. Any man who would do what Mills admits he did for the purpose of getting a piece of land cannot be regarded as an honest and conscientious man. The honorable member for Geelong West (Mr. Berry) commented very favorably upon the character of the honorable member for the Avoca (Mr. Grant), and I give him credit for the sincerity of his remarks, but I do not see why he should have cast any reflection upon the officials in the Lands department, who, in my opinion, would not condescend to any such contemptible meanness as the honorable member has been pleased to impute to them. In conclusion, I must express my regret that I was not present when the report was brought before the committee. If I had been I should have objected to many of the clauses of it. Instead of the report
being a fair statement of the case, such as would have been submitted by a court of law—giving Mr. Stutt the benefit of all the evidence in his favour—it appears to be to be a one-sided affair altogether, and I cannot honestly vote in favour of it.

On the motion of Mr. DUFFY, the debate was adjourned until the following day.

SUPPLY.

The House then went into Committee of Supply.

The discussion on the vote of £29,384 13s. 4d. for education, making the total vote for the year £176,093 6s. 8d. (adjourned from November 24), was resumed.

In reply to Mr. HIGINBOTHAM,

Mr. MACPHERSON stated that the plan of distributing the vote furnished by the Board of Education which had been laid on the table could not be altered by the committee or inserted in the Appropriation Bill. He assented to progress being reported the other evening for the purpose, not of bringing down a new estimate, but of obtaining information from the Board of Education:

Mr. HIGINBOTHAM observed that he moved that the Chairman report progress the other evening with the view of enabling a detailed estimate of the vote for education to be brought down by the Government with which the committee could deal. He was satisfied with the detail of expenditure submitted, if brought down as an estimate. It was headed "Estimates for 1869," although it was forwarded by the Board of Education. But if it was not brought down as an estimate, it was of no earthly use whatever for the purpose for which progress was reported.

Mr. MCCULLOCH said he saw no objection to insert in the Appropriation Bill the detailed estimate furnished by the Board of Education.

Mr. MACPHERSON remarked that it could not be done.

Mr. KERFERD observed that it would override an Act of Parliament.

Mr. HIGINBOTHAM thought this should have been stated when the committee decided that the Chairman should report progress with a view to have a detailed estimate brought down. On that occasion he distinctly stated that he would not accept the Chairman's ruling, or even the Speaker's ruling, on the question of the right of the committee to deal with a detailed estimate, although upon the mere matter of form whether a condition might or might not be added to the education vote he did not appeal against the decision of the Chairman. He also intimated that what he wanted was a detailed estimate of the expenses of the Board of Education. Surely if it was not intended to give that, it might have been stated at the time.

Mr. DUFFY reminded the honorable and learned member that estimates of expenditure could proceed only from the Crown. The honorable and learned member asked the Government the other evening to take a responsibility which he must have known beforehand they would not take, seeing that several members of the Government were at issue utterly as to his views on the question. The honorable and learned member expected the Government, which contained a number of members—half of them at least—directly opposed to him, to facilitate his views to alter the law with respect to education by bringing down an estimate in a fashion that would enable him to override the existing law. The honorable and learned member was not without notice that he was simply wasting time in asking that the Chairman should report progress.

Mr. HIGINBOTHAM understood that the objection raised by the honorable and learned member for Dalhousie, the previous week, to reporting progress, was that the money had all been expended, not that there would be any difficulty in dealing with the estimate which might be brought down by the Government. It was not then stated that there would be an objection to doing that which the committee, by carrying the adjournment, asked should be done—namely, that an estimate should be brought down, which the committee might go through, for the purpose of increasing, diminishing, or striking out any item, as they might think fit.

Mr. KERFERD said the honorable and learned member could hardly complain of being taken by surprise, because he (Mr. Kerferd) distinctly pointed out that, although he voted for reporting progress, it was for the purpose of obtaining information, and not because he was at all concerned as to the ulterior object which the honorable and learned member had in view. He took it that, if the schedule of expenditure submitted by the Board of Education were attached to the vote, it would be ultra vires.
Mr. McCULLOCH observed that he should like to know why it would be ultra vires. He had yet to learn that the committee could not cut down the vote if it thought fit. Surely the committee was entitled to ask for details of the expenditure, and, if it pleased, to insert those details in the Estimates, so that all the information with regard to the education vote might not be limited to the lump sum of £176,093. As to the question whether any particular item could be reduced, that was not before the committee, and it would be time to raise objection when any such reduction was proposed.

Mr. COHEN said the Government could do nothing more to meet the views of the honorable and learned member for Brighton than they had done. If it was necessary to submit a detailed estimate, why did not the honorable member for Mornington submit it when he brought down his financial scheme for the year? The vote was the vote brought down by the honorable member for Mornington, when he was Treasurer, and it was absurd to ask for details in the twelfth month of the year, when no alteration could be made in the plan of distribution. If the honorable and learned member for Brighton required details as to the expenditure on public education, the time for him to ask for them was when the education vote for 1870 was submitted.

Mr. MACKAY asked if the solemn vote of the committee was to be disregarded? The committee, by a decided majority, required that a detail of the expenditure under the education vote should be brought down. ("No.") He understood the motion to report progress, on which the Ministry divided, was carried the previous week in order that the estimate for education should be presented to the committee in a detailed state, and not in a lump sum. He contended that the Chief Secretary was casting an indignity upon the committee in placing upon the table a document which could be of no service for the purpose for which it was asked. If honorable members submitted to such treatment they were not worthy to be representatives of the people. He, for one, considered that he had been trifled with.

Mr. McDonnell protested against the imputation of motives cast by the last speaker upon the Chief Secretary. The honorable and learned member for Brighton appeared surprised that the detailed estimate of expenditure supplied at his request was not attached to the education vote, so as to form part and parcel of the Estimates for the year, and thus become an act of the Government. But he submitted that there was no ground for surprise. If the Government had done what the honorable and learned member seemed to think they should have done, the proceeding would have involved a question of educational policy, and the getting rid in an illegal way of an Act of Parliament. Such a proceeding the Government were not disposed to entertain. At the same time, on the part of the Government, he disclaimed all intention of discourtesy.

Mr. HIGINBOTHAM moved that the Chairman report progress. It was clear that the question must be more fully considered. He did not intend to impute to the Government any intentional discourtesy, but he must say that the Government, notwithstanding a most distinct expression of what he intended, failed to apprehend his meaning. The Government now knew what was intended. The bringing down of an estimate in detail did not necessarily involve an alteration in any item, but would leave it open to the committee to deal with any or every item.

Mr. MACGREGOR said he did not think it worth while reporting progress. The Education Act distinctly provided that one of the duties of the Board of Education should be to frame general regulations for the distribution of moneys granted by the Legislature; and it appeared to him that, if that Act was to stand, a detail of the expenditure under the education vote could not be inserted in the Appropriation Bill. If the honorable and learned member for Brighton desired that the regulations for the expenditure on public education should be framed by the Legislature instead of by the Board of Education, let him propose, in a straightforward way, the repeal of the Education Act.

Mr. MACPHERSON objected to being made responsible for estimates of which he knew nothing. The Common Schools Act provided for the management of the Education department, and he had no right, as a Minister of the Crown, to go into that department, and inquire into the expenditure and ask for particulars. And when progress was reported, the previous week, it never entered into his head to do