be necessary at the end of the month to postpone the motion again, as I do not know what business the other House may go on with in the meantime.

Question resolved in the affirmative.

SUPREME COURT PROCEDURE BILL.

SECOND READING.

Mr. SIMPSON rose to move:

That this bill be now read the second time.

He said: In order that the judges of the Supreme Court may dispose as speedily as possible of business which has to be heard before two or more judges, on some occasions there has been a sitting of what is called the Supreme Court in Banco in two divisions; that is, one court, consisting perhaps of three judges, is held at the same time as another court, consisting of two or three judges, is held in another room in the same building. It has been found that, owing to the initiation of that practice, business which otherwise would have been delayed has been satisfactorily disposed of. It is intended also, when the judges can spare sufficient of their number to devote themselves to the work, that two courts should in future be held in banco at the same time. But doubts have been entertained as to the legality of two courts in banco, being the Supreme Court really, sitting at the same time. To remove these doubts, and to legalise what may have been illegally done in the past, is the object of the bill. The preamble sets forth very clearly the main provisions of the bill and why it has been introduced; substantially it amounts to what I have stated. I do not think there can be any possible objection to the bill It has been carefully considered and carefully drawn, and seems to me to sufficiently carry out the object for which it is introduced.

Question proposed.

Mr. FAUCETT: I entirely approve of the bill. There can be no doubt that great delay was caused in former times, when it was supposed that under the existing acts only one court could sit in banco at one time. Whether that was a mistake or not it is not necessary now to consider, provided that we pass the bill. It was utterly unavoidable in former times, when the number of the judges was limited; they could not form a second court in banco in consequence of the small number of the judges. Now, however, that the number of the judges has increased, and the business has also very largely increased, it is desirable that there should be more than one court sitting in banco at the same time, and with the same powers. We have exactly the same thing occurring in England, which is and ought to be the highest authority to which we we can look in all these cases. Four different courts sit in London at the same time, and besides that, other courts sit at the same time, all with equal authority, subject, of course, to the Supreme Court of Appeal. I see no reason why we should not establish the same practice here, which would lead to the carrying out of business more rapidly. I have read the bill with some care, and I do not see anything objectionable in it. I, therefore, most heartily support the second reading.

Question resolved in the affirmative.

Bill read the second time, and reported from Committee without amendment; report adopted.

House adjourned at 4·54 p.m.

Legislative Assembly.

Wednesday, 2 September, 1891.

Diseased Meat—Wingen Population Reserve—Cattle Travelling—Captain's Flat: Justices of the Peace—Rain Experiments—Police Force: Holidays—Regina *v.* McLeod—Mining on Private Property Bill—Armidale Lands Office Officials — Wrought-iron and other Metals—Police Courts: Paddington, Deniliquin, and Young—Railway Goods Clerks—J. McCathey, J.P.—Lodging Houses—Dogs Registration—Short Weights: Hawkers—Pastoralists' and Shearers' Dispute—Irrigation Works—Watchmen, Dredge Service—Coogee Bay Road—Watson's Bay Public Park—Gambling by Sweeps and Totalisators—Breakneck, Double Bay—Randwick Rifle Range—Martin Place—Lands Office: Additions—Postal Pillars—Callan Park Asylum—Southern Rifle Association — Accidents on Tram-lines — Married Women's Property Bill—Diseases in Sheep Act Amendment Bill—Claims of Messrs. Tom and Lister—Civil Service Commission—Aborigines at Brewarrina—Loss of the *Ellen*— Adjournment (Barricades: Circular Quay)—Crown Lands Act Amendment Bill—Seat of Mr. Wheeler—Adjournment.

Mr. SPEAKER took the chair.

DISEASED MEAT.

Mr. SHARP (for Mr. COTTON) asked the COLONIAL SECRETARY,—(1.) Is it a fact that diseased meat is being sold for human

food in some of the suburban districts? (2.) If so, will he take some steps to prevent this practice?

Sir HENRY PARKES answered,—(1.) No report of diseased meat being sold for human food during the last few weeks has been received by the Board of Health. (2.) The Government is aware of the danger, and has the matter under consideration.

WINGEN POPULATION RESERVE.

Mr. WILLIS asked the SECRETARY FOR LANDS,—(1.) On what date were the Wingen population reserves thrown open for settlement? (2.) Will he give the name of the Minister for Lands who authorised the throwing open of such reserve? (3.) Will he further give the names of the persons who selected the land when thrown open, and date of such application to so select?

Mr. BRUNKER answered,—(1.) The Wingen Population Reserve was revoked on 22nd October, 1885, and became available for selection on the 22nd December in same year. (2.) Mr. Farnell. (3.) On 24th December, 1885,—W. Bell, James Wood, Francis A. Abbott, W. E. Abbott, R. Cummins, W. Challis, Samuel McGregor, J. P. Abbott, P. Mullins, and R. Stevenson. On 4th February, 1886,—James Ryan. On 20th May, 1886,—P. Mullins. On 9th June, 1887,—P. Mullins and Wm. Challis. On 22nd December, 1887,—W. Challis. On 6th March, 1888,—Lydia Shaw. On 21st June, 1888,—James Wood. On 6th December, 1888,—P. Mullins. On 13th May, 1889,—G. Challis. On 16th August, 1890,—James Rae.

CATTLE TRAVELLING.

Mr. STEVENSON (for Mr. DICKENS) asked the SECRETARY FOR MINES AND AGRICULTURE,—(1.) Is it a fact that large numbers of cattle (principally from Queensland), described as "fats," but which in many cases are "stores," are in the habit of travelling through this colony without giving such notice to the Crown tenants and other occupiers of the land, as is required under the Diseases in Sheep Acts Amendment Act of 1878? (2.) Is it a fact that all cattle so travelling, "fats" or otherwise, which are not required to give notice under such act, are the cause of considerable loss to the Crown tenants and other occupiers of the land, owing to the destruction of rabbit-proof and other fencing by them, trespass and other causes? (3.) Will he cause a report to be made upon the matter by the Chief Inspector of Stock?

Mr. S. SMITH answered,—(1.) Yes, through the difficulty of proving that the cattle were not "fats" when started, and through a few fat cattle being put with the others, inspectors have been unable, except in a very few instances, to make out a case against drovers of cattle for failing to give notice, although they have had special instructions to prosecute whenever, in their opinion, the cattle were "stores." (2.) Yes; constant complaints have been received by the department from all parts of the colony, but more especially from the western districts, of the loss and injury caused by these cattle, and the Stock and Pastures Bill revised by the Stock Conference which met in 1888 provides that all travelling cattle whether "store" or "fat" shall give notice. (3.) The Chief Inspector of Stock has frequently urged this course.

CAPTAIN'S FLAT: JUSTICES OF THE PEACE.

Mr. O'SULLIVAN asked the MINISTER OF JUSTICE,—(1.) Is it a fact that there is now only one justice of the peace at Captain's Flat—a mining centre of 800 inhabitants—and that as a result no court can be held there, save when the police magistrate happens to call about once a month? (2.) Is it a fact that when the court at Captain's Flat falls through, owing to the absence of a second magistrate, offenders will have to be taken to Bungendore, a distance of 26 miles? (3.) If so, will he recommend to the Cabinet the desirableness of immediately appointing two more justices of the peace for Captain's Flat?

Mr. GOULD answered,—I have no information as to the alleged facts, but will cause full inquiry to be made into the matter.

RAIN EXPERIMENTS.

Mr. O'SULLIVAN asked the COLONIAL SECRETARY,—(1.) Has the attention of the Government been directed to the successful results which have attended the experiments made in the United States

to produce rain? (2.) In view of the immense importance of rain to the pastoral and agricultural interests of New South Wales, will the Government take immediate steps to obtain the latest information on this subject, and, if necessary, imitate the action of the United States Congress in a sum of money to aid similar experiments in New South Wales?

Sir HENRY PARKES answered,—I have read in the newspapers, as I have no doubt the hon. member himself has done, of these interesting experiments, but I am not quite sure whether there have been any successful results. As soon as I get a shower of rain for the purpose of some experiments of this kind, I will immediately communicate with the hon. member.

POLICE FORCE: HOLIDAYS.

Mr. J. D. FITZGERALD asked the COLONIAL SECRETARY,—(1.) Is it a fact that the members of the police force who were recently sent on special duty to the district of Bourke have had their usual holiday stopped? (2.) If so, will the department favourably consider the advisableness of giving the usual monthly holiday to those who were deprived of it?

Sir HENRY PARKES answered,—I am informed by the inspector-general that the police sent on special duty to Bourke were allowed twenty-four hours' leave on their return to Sydney, and as far as the exigencies of the service will permit, the usual leave will be granted.

REGINA *v.* McLEOD.

Mr. ALLEN (for Mr. WISE) asked the COLONIAL SECRETARY,—(1.) Has his attention been called to the decision of the Privy Council in the case of the Queen *versus* McLeod, in which it was held that our courts had no jurisdiction to try a case of bigamy, if the bigamy had been committed out of the colony? (2.) Is he aware that the jurisdiction in such cases as above were conferred by the imperial act 9 George IV, c. 31, which does not appear to have been brought to the notice of the board? (3.) Will he, in order to ensure certainty in the administration of the criminal law, advise the Governor to prefer a request to her Majesty, that the opinion of her Majesty's Privy Council may be taken as to the important points of law and practice raised by the case of Regina *versus* McLeod, as submitted by the Supreme Court?

Sir HENRY PARKES answered,—My answer is that I have received a letter from the hon. and learned member for South Sydney, Mr. Wise, stating his intention to postpone this question for a week, and it will not much concern me if he postpones it for six months.

MINING ON PRIVATE PROPERTY BILL.

Mr. MOLESWORTH (for Mr. TONKIN) asked the SECRETARY FOR MINES AND AGRICULTURE,—When is it his intention to introduce a bill to authorise mining on private property?

Mr. S. SMITH answered,—I intend to give notice of the introduction of a bill at an early date.

ARMIDALE LANDS OFFICE OFFICIALS.

Mr. BARBOUR (for Mr. COPELAND) asked the SECRETARY FOR LANDS,—(1.) Referring to his reply to Mr. Copeland's question No. 2 of Tuesday, 25th August, will he say if any of the £85 was paid to the clerical staff, or was it allotted to the draftsmen, in the Survey Office, Armidale? (2.) Did not the clerical staff work as much overtime as the draftsmen, and become thereby entitled to as much consideration as their fellow officers, the draftsmen?

Mr. BRUNKER answered,—(1.) The whole sum of £85 was paid to draftsmen in the Armidale Land Office for piecework in connection with computations, and the checking of plans performed since the 26th March last. (2.) It cannot be stated whether the clerical staff worked as much overtime as the draftsmen; but it is a fact that the officers at Armidale and elsewhere were called upon to work after the regular hours owing to the great rush for land which took place on the expiration of the pastoral leases in the eastern division, and the throwing open to selection of a large number of reserves, for which no extra payment has been made.

WROUGHT-IRON AND OTHER METALS.

Mr. BARBOUR asked the COLONIAL SECRETARY,—(1.) Did the Military Department invite tenders from parties willing to purchase 350 tons of old wrought-

iron and other metals, returnable on the 20th July last? (2.) Were any of such tenders accepted? (3.) Was a tender accepted for the whole, or for a part only? (4.) What was the price offered by the accepted tenderer or tenderers?

Sir HENRY PARKES answered,—The following information has been furnished by the Major-General Commanding the Military Forces :—

(1 and 2.) Yes. (3.) For the whole. (4.) For cast and wrought iron, £2 13s. per ton; gun-metal, £20 per ton; lead alloy, £8 per ton.

POLICE COURTS : PADDINGTON, DENILIQUIN, AND YOUNG.

Mr. O'SULLIVAN asked the SECRETARY FOR PUBLIC WORKS,—(1.) *(a)* The cost of the gaol at Glen Innes; *(b)* when was this gaol erected; *(c)* has the building ever been used as a gaol? (2.) *(a)* The cost of the police court at Paddington; *(b)* when was this building erected; *(c)* has it ever been used as a police court? (3.) *(a)* The cost of the court-house at Deniliquin; *(b)* when was the building erected; *(c)* has it ever been used as a court-house? (4.) *(a)* The cost of the court-house at Young; *(b)* is it a fact that the building is used as a minor court only?

Mr. YOUNG answered, — (1.) *(a)* £12,344 15s. 9d. *(b)* In 1886. *(c)* No. (2.) *(a)* £3,977 14s. 6d.; *(b)* in 1888. *(c)* No; but the watch-house premises attached have been occupied as a police-station. (3) *(a)* £12,794 8s. 6d. *(b)* In 1886. *(c)* No; but it will be next Assize Court. (4.) *(a)* £11,464 18s. 11d. *(b)* In 1886. *(c)* The new court-house at Young is used at assize court, court of quarter sessions, and district court.

RAILWAY GOODS CLERKS.

Mr. SHARP asked the COLONIAL TREASURER,—(1.) Will he at once refund the 4 per cent. deducted from the clerks in the goods department, since the commissioners took office, in view of the fact that these persons are not recognised as civil servants under the Railways Act? (2.) Is it a fact that certain officers in this department receive an additional salary as board members? (3.) Will he, in justice to these clerks, who have been compelled to work long hours, as well as on Sundays, pay them a fair rate of overtime; and so increase the staff so as to minimise both overtime and Sunday work? (4.) Is it a fact that neither drinking water, latrines, or water-closet accommodation is provided at Darling Harbour; and, if so, will he take steps to at once remedy this state of things?

Mr. BRUCE SMITH answered,—(1.) With regard to the first question, I may point out that clause 106 of the Railways Act provides for the saving of rights to officers as regards the provisions of the Civil Service Act. (2 and 3.) Questions 2 and 3 refer purely to the railway staff, which, by the Railways Act, is placed under the control of the railway commissioners, and it would only tend, in my opinion, to weaken their administration if questions of this nature were dealt with as proposed. (4.) As regards question 4, I will bring the matter under the notice of the railway commissioners. I take this opportunity of saying that I shall feel constrained in the future to decline answering questions dealing with the details of railway administration, as, in my opinion, it was never intended by the Railways Act —nor is it, in my opinion, desirable—that every minor matter of our railway management should be reviewed in Parliament, so long as the provisions of the act are being duly observed by the commissioners.

J. McCATHEY, J.P.

Mr. WILLIS (for Mr. T. WALKER) asked the COLONIAL SECRETARY,—(1.) Is he aware that a bank, trading under the name "Bank of Sydney," has as manager a gentleman named McCathey, J.P.? (2.) Is it consistent with the high office of a justice of the peace to use the designative letters "J.P." for trading purposes?

Sir HENRY PARKES answered,—It appears that some gentleman named McCathey is in the commission of the peace, and it pleases him to attach "J.P." to his name when announcing himself as the manager of a banking company. I do not think the case is one in which the Government can interfere. It is a matter of taste, which I do not think will be very highly appreciated.

LODGING HOUSES.

Mr. DARNLEY asked the COLONIAL SECRETARY.—Is it the intention of the Government to introduce a measure deal-

ing with lodging houses, such as will prevent Chinese and others from herding together in the manner they do; if so, when?

Sir HENRY PARKES answered,—This is one of the subjects of legislation which has been before the Government, not only recently, but some considerable time ago. I would be very glad to introduce a bill to deal with it, if the position of other measures before Parliament would permit me to do so; and if the opportunity arises it shall be done.

DOGS: REGISTRATION.

Mr. DARNLEY asked the COLONIAL SECRETARY,—In view of the inconvenience caused by the owners of dogs having to attend at the Water Police Court to register their dogs, will he consider the advisability of arranging for the licenses being issued from the various post-offices?

Sir HENRY PARKES answered,—I am afraid we cannot make this alteration. We cannot get the dogs to go to any place to be registered, and some one who is responsible for the dogs, and also the puppies, must undertake the responsibility of registration.

SHORT WEIGHTS: HAWKERS.

Mr. DARNLEY asked the COLONIAL SECRETARY,—(1.) Is it a fact that goods, such as butter, tea, bacon, cheese, &c., are hawked about the streets of Sydney, and that short weight is frequently given? (2.) Is it a fact that the Inspector of Weights and Measures has no jurisdiction over such cases? (3.) If so, will he, in the interest of the shopkeepers and general public, take such steps as are necessary to give the inspector power to deal with such cases?

Sir HENRY PARKES answered,—The answers supplied to me are these: (1.) I am not aware. (2 and 3.) I will cause inquiry to be made into the matter, and communicate the results to the hon. member. These are the answers supplied to me from the proper department. I may add that I do not see how I can possibly be personally answerable for short weight in the sale of bacon, cheese, and butter.

PASTORALISTS' AND SHEARERS' DISPUTE.

Mr. WILLIAMS asked the COLONIAL SECRETARY,—(1.) In view of the letter received from Mr. W. E. Abbott, president of the Pastoralists' Association, will he take the necessary steps to prevent officers of that association from adjudicating on any dispute which may crop up between pastoralists and shearers? (2.) If not, will he appoint an equal number of the officials and members of the Shearers' Union justices of the peace, so that both sides may be fairly and equally represented?

Sir HENRY PARKES answered,—I am afraid I must confess I have not read this letter of Mr. W. E. Abbott, and I am hardly in a position to answer the question. But if the hon. member for The Upper Hunter wishes me to so balance the persons who occupy judicial positions in this country for the minor courts as to enable them to have a fair fight on this or on any other question, I cannot undertake to do it. All I can undertake to do is to the best of my ability to see that the gentlemen recommended to the Government for appointment to the commission of the peace are eligible for their important duties, and it is not for me to inquire particularly as to what class they belong to. It must be assumed that the gentlemen who undertake these responsible duties are prepared to discharge them in a just and judicious spirit, and if any breach of conduct contrary to these obvious rules is brought before my notice I will take the necessary steps for the removal of the person from the commission of the peace.

IRRIGATION WORKS.

Mr. HOUGHTON asked the COLONIAL SECRETARY,—Is it the intention of the Government to take any steps with a view to starting the long-promised irrigation works on the state lands of the colony?

Sir HENRY PARKES answered,—I shall be very much obliged to the hon. member if he would ask this question, say, in a week's time, and if he would ask it from the Secretary for Mines and Agriculture.

WATCHMEN, DREDGE SERVICE.

Mr. HOUGHTON asked the SECRETARY FOR PUBLIC WORKS,—(1.) Is it a fact that the watchmen employed in the dredge service of the Harbours and Rivers Department have to be on duty fourteen hours on every day in the week (Sundays and holidays included), for which they are remunerated at the rate of £2 per week?

(2.) If so, will he cause some alteration to be made whereby these men will not be compelled to undergo such long hours of service?

Mr. YOUNG answered,—I have received the following report from the Engineer-in-Chief for Harbours and Rivers on the subject, and all that I can promise at present is that I will carefully look into the matter myself, and acquaint the hon. member of my decision. The report reads as follows:—

The hours cannot be considered long, seeing that the men have almost nothing to do but sit about and read; but, if possible, some arrangement will be made to employ the watchmen, and then their pay can be assimilated to the pay received by men who work eight hours. This will, however, necessitate the removal of all watchmen who are incapable of a day's work, and the employment of men in their places who can work.

COOGEE BAY ROAD.

Mr. NEILD asked the SECRETARY FOR PUBLIC WORKS,—Referring to his reply to Mr. Neild, on the 28th July, has he received the report for which he was waiting before deciding upon the application of the Randwick Borough Council for a grant to enable the widening of the Coogee Bay Road?

Mr. YOUNG answered,—The report has not yet been received, but I understand the local officer is visiting the locality to-day. As soon as his report is before me I will come to a decision on the matter.

WATSON'S BAY: PUBLIC PARK.

Mr. NEILD asked the SECRETARY FOR LANDS,—When will the papers anent the proposed public park at Watson's Bay, ordered by resolution of this House on the 26th July, be laid upon the table?

Mr. BRUNKER answered,—The papers are being copied, and will be laid upon the table of this House during the course of the ensuing week.

GAMBLING BY SWEEPS AND TOTALISATORS.

Mr. DIBBS asked the COLONIAL SECRETARY,—(1.) Is the law, in the opinion of the Attorney-General, sufficient to put down the present gambling system by sweeps and totalisators which prevails in Sydney? (2.) If so, why does not the police do its duty? (3.) If the law is insufficient will he introduce a bill forthwith to deal with this evil?

Sir HENRY PARKES answered,—The hon. member was kind enough to inform me beforehand of his intention to ask this question, and I have in consequence consulted the Attorney-General, and although it is not the usual course, I think I may read his opinion. It is hardly right to read the Attorney-General's opinion in this House, but I think I may be permitted to read it. The Attorney-General says:

I am of opinion that if the penalties of imprisonment provided by the existing enactment were imposed by the magistrates, instead of fines merely being inflicted, the evil complained of would be greatly lessened; but there are at present defects in the law which it is desirable to cure by legislation. I am having a bill prepared which it is hoped will more effectually deal with the matter.

I cannot leave this subject, if the hon. member and the House will permit me, without saying that, although I am not a betting man, I have but little knowledge of this meritorious operation, I have a shrewd suspicion there is a great disposition to smile at gambling in high places, and to make a great fuss about gambling in the lower walks of life.

BREAKNECK, DOUBLE BAY.

Mr. NEILD asked the SECRETARY FOR LANDS,—When will the papers anent the thoroughfare known as Breakneck, Double Bay, ordered by resolution of this House on the 30th July, be laid upon the table?

Mr. BRUNKER answered,—The papers are being copied, and will be laid upon the table of this House with the least possible delay.

RANDWICK RIFLE RANGE.

Mr. NOBBS asked the COLONIAL SECRETARY,—Whether he intends to take any action with regard to the statements which have been made in the press and elsewhere regarding the faulty construction of Randwick range?

Sir HENRY PARKES answered,—Steps have been initiated, and I believe a board of inquiry will be appointed to satisfy the public on these rather important points, and I think I am justified in admitting that there is some ground for fear that mistakes have been made in the laying out of the range. If that is found to be the case, I undertake to see that they are rectified.

[*Mr. Houghton.*

MARTIN PLACE.

Mr. LYNE asked the SECRETARY FOR PUBLIC WORKS,—Is it intended to open Martin Place for vehicular traffic, or for foot traffic only?

Mr. YOUNG answered,—Yes, for both, as follows:—48 feet ornamental pavement in front of Post Office; 38 feet wood-blocked road for vehicular traffic; 14 feet footpath on opposite side from Post Office.

LANDS OFFICE: ADDITIONS.

Mr. LYNE asked the SECRETARY FOR LANDS,—What is the object of disfiguring the top of the additions to the Lands Office by the extraordinary structures there being erected; and for what purpose are they placed there?

Mr. BRUNKER answered,—I am informed by the Works Department that the structures on the east and west fronts are erected as photographic galleries. The cupola to the central dome is part of the lantern intended to light the large fire-proof record chamber. All these are included in the design originally considered and sanctioned.

POSTAL PILLARS.

Mr. BLACK asked the COLONIAL SECRETARY,—Is it the intention of the Government to compel the Postal Pillar and General Advertising Company of New South Wales to fulfil that part of their agreement with the hon. the Postmaster-General which binds them to furnish their advertising postal pillar-boxes with electrical and telephonic contrivances for the purposes of police and fire brigade alarm?

Sir HENRY PARKES answered,—There is no obligation on the part of the contractor to provide electrical and telephonic contrivances for the purpose of police and fire brigade alarm. He has already provided in these postal pillars compartments which can be utilised for the purposes indicated by the hon. member whenever it may be considered desirable.

CALLAN PARK ASYLUM.

Ordered (on motion by Mr. J. D. FITZGERALD):

That there be laid upon the table of this House copies of all the recent correspondence relating to the appointment of a committee to inquire into the administration of the Callan Park Asylum.

SOUTHERN RIFLE ASSOCIATION.

Ordered (on motion by Mr. ROSE):

That there be laid upon the table of this House copies of all papers and correspondence in connection with the formation of the head-quarters of the Southern Rifle Association at Moss Vale.

ACCIDENTS ON TRAM-LINES.

Ordered (motion by Mr. O'SULLIVAN):

That there be laid upon the table of this House a return showing,—(1.) The number of persons who lost their lives through accidents on the tram-lines since the initiation of the tramway service. (2.) The number of persons injured on the tram-lines during the same period. (3.) The amount of compensation paid by the Government on account of these accidents.

MARRIED WOMEN'S PROPERTY BILL.

Bill received from the Legislative Council, and read the first time (Mr. Dibbs).

DISEASES IN SHEEP ACT AMENDMENT BILL.

Bill presented, and read the first time (Mr. Dickens).

CLAIMS OF MESSRS. TOM AND LISTER.

Report of select committee presented.

CIVIL SERVICE COMMISSION.

Mr. NEILD: I wish to ask the Minister of Justice a question without notice. Referring to the answer given on the 25th August, that the Minister was not aware whether the report of the Civil Service Commission was complete, so far as it related to the Department of Justice—is the Minister aware that the report in question was handed to the Premier by the commission on the 20th April last; and, if it was handed to the Premier on that or any other date, when will it be in the hands of hon. members?

Mr. GOULD: I saw it stated in one of the papers to-day that this report has been sent to the Premier. I have not received a copy of the report. I am not aware whether it has, or has not, been sent to the Premier.

ABORIGINES AT BREWARRINA.

Mr. WILLIS: The Premier, in reply to a question yesterday, said he did not know that the aborigines at the mission station near Brewarrina were being badly treated. I can assure the hon. gentleman

that I have reliable information that they are being badly treated, and as the camp is only about 6 or 7 miles from Brewarrina, and as the police magistrate has very little to do, and can borrow a horse if he has not got one of his own, will the hon. gentleman instruct this officer to take a ride to the mission station and talk to the blacks, and get what information he can as to the treatment they receive?

Sir HENRY PARKES: Do I distinctly understand the hon. member to say that he has reason to doubt the accuracy of the answers I gave?

Mr. WILLIS: Yes.

Sir HENRY PARKES: I will have a special inquiry made to ascertain the truth, and if I have been misled by the answers put into my hands, I shall know what course to take.

LOSS OF THE *ELLEN*.

Mr. G. D. CLARK: Can the hon. gentleman at the head of the Government inform the House when the report of the royal commission appointed to inquire into the circumstances attending the loss of the *Ellen* will be laid upon the table?

Sir HENRY PARKES: I am not in a position to give any reply. As a minister, I regard it as an obligation imposed upon me when any subject is intrusted to a royal commission not to interfere with the action of that royal commission; in other words, I judge it to be in the highest degree in the public interest that any commission charged with an inquiry of that kind should be perfectly independent to take their own course, and until they think proper to report I do not think I am justified in any way in interfering unless it is obvious that there is a culpable delay, when, of course, it would be my duty to interfere. If the Government of the country trust any subject to an independent inquiry, I think that inquiry, above all other considerations, should be left perfectly independent.

Mr. G. D. CLARK: Has not the inquiry been completed?

Sir HENRY PARKES: Not to my knowledge. When the inquiry is completed it is the duty of the commission to report to the Governor, and the Governor will lose no time in sending the report to me.

ADJOURNMENT.

BARRICADES: CIRCULAR QUAY.

Mr. SPEAKER: I have received an intimation from the hon. member for West Sydney, Mr. Kelly, that he desires to move the adjournment of the House "with a view to consider the delay of the Government in removing the barriers erected during the late strike at the Circular Quay."

Five hon. members having risen in their places,

Mr. KELLY: I move:

That the House do now adjourn.

It is with reluctance that I am obliged to take this step. Hon. members are perfectly aware that last night, to avoid moving the adjournment of the House, I asked the Colonial Treasurer what was the result of the inquiries he made with respect to the removal of the barricades, and to my question the hon. and learned gentleman gave a very impertinent answer. It is not very pleasant for me to be continually asking questions with respect to these barricades, nor do I wish to prolong the sittings of the House, and to entail extra duty upon Mr. Speaker, for I look upon his position as one of the most monotonous that any man could occupy. I called the attention of the Colonial Secretary to this matter on the 22nd July. The hon. gentleman, who was then Acting Colonial Treasurer, gave me to understand that he would make inquiries on the subject, and that he would make a personal inspection of the barricades. I accompanied him to Circular Quay, and he admitted there that they were an unsightly nuisance, and that he would use his endeavours to have them removed.

Sir HENRY PARKES: The hon. member is not quite accurate. He did not accompany me, because I spent some time in looking for him.

Mr. KELLY: I was waiting for the hon. gentleman from 9 o'clock until half-past 10, so it was I who had to do a Botany handicap. The Colonial Secretary then assured me that he would remove the barricades.

Sir HENRY PARKES: I did not give that assurance!

Mr. KELLY: Did not the hon. gentleman tell me on the Quay that they were an unsightly nuisance, and that he would have them removed?

Sir HENRY PARKES: No.

Mr. KELLY: Did not the hon. gentleman, when I was sitting in a corner of the Chamber, tell me distinctly that he would have them removed with a view to erecting a more ornamental structure in their place? The Premier came over to me one night, when I was sitting on the opposite side of the Chamber, and told me distinctly that, because of my restraining myself during the debate, it was his intention to have the barricades removed, and that he would suggest that a bust of each hon. member who was opposed to their removal be placed on the posts. The next time I drew attention to the matter was just previous to the adjournment of the House, when the hon. and learned member for The Glebe, Mr. Bruce Smith, told me that if he happened to be Colonial Treasurer the question would not have to be asked eight times before the matter was remedied. I have *Hansard* here to prove that.

Mr. BRUCE SMITH: I said that the hon. member would have a better chance of getting an answer by asking once than by asking eight times!

Mr. KELLY: I was given to understand that, if the hon. gentleman became Colonial Treasurer, I would not have to ask eight times about the matter, and I believe that he, at that time, had his eye upon the office. The next time I called attention to the matter was on the 20th August, and this is the answer which I got from the hon. and learned member, who at this time was Colonial Treasurer:

> The House will admit that companies paying thousands of pounds a year for the use of the wharves are entitled to have the means of protecting their goods whilst they are lying on the wharves.

The hon. and learned member has, I believe, had some experience in shipping matters, and he knows perfectly well that once the cargo leaves the ships' holds neither the Orient Company nor the Peninsular and Oriental Company are responsible for it. They pass an entry through the Customs-house to that effect, and for the hon. gentleman to say that this structure is a protection to cargo is incorrect, because a man working at the Peninsular and Oriental Company's wharf would have to truck a case half a mile to put it inside the barricades. Besides, after cargo has been landed twenty-four hours it is at the consignee's risk, and it is the business of the companies to see that it is properly stored for the protection of the consignees. So that the hon. member's excuse is not a very fair one. I worked on the wharf seven years ago, before there was a shed erected there, and while I have no objection to the Colonial Treasurer erecting a railing round this wharf like that around the Peninsular and Oriental Company's wharf or the Orient Company's wharf for the purpose of protecting the cargo, I have strong objections to the erection of a railing across the public thoroughfare. The only cargo lying on the wharf is galvanised iron in cases weighing 10 cwt. each, and the man who could carry one of them away would deserve to have it. I know I shall be told that I am wasting the time of the House; but I have no desire to do that, and if the Colonial Treasurer gives me the assurance that he will not erect an ornamental structure across the Quay, and have the present barricades removed, I will not bring the matter up again; but, if he does not, I and others of my colleagues are determined to try and allow the public to have free access to the Quay.

Mr. BRUCE SMITH: The hon. member commenced his remarks by saying that I gave him an impertinent answer last night. I have sent for *Hansard* to get my exact words; but I can say for myself that the words that I used are incapable of such a construction. The hon. member knows that it was a quarter-past 2 o'clock this morning, after one of the heaviest night's work we have had in the history of this Parliament ——

Mr. REID: Oh, oh!

Mr. BRUCE SMITH: Well, certainly the hon. member did not do much work.

Mr. REID: I was laughing at the work, that is all!

Mr. BRUCE SMITH: At all events, it was a quarter past 2 o'clock this morning when the hon. member asked:

> What is the result of the inquiry *re* the barricades this afternoon?

My answer was:

> I have come to no result at present.

There is nothing very impertinent about that.

Mr. KELLY: There was in the manner in which the hon. member turned round—like this!

Mr. BRUCE SMITH: I understand now that it is not my answer to which the hon. member objects, but the attitude which I assumed. Well, I cannot pretend to have the same elegant, willowy figure which the hon. member has; if I had, it is possible I should be able to assume an attitude which would please him. The matter is one which I have never studied. I have never given any attention to attitudes or deportment; but I have given some attention to my language, and I venture to say that no man, of the most punctilious disposition, can take exception to the words I used. The hon. member asked me a question about the barricades, for the first time, about a week or ten days ago, before I occupied the position of Colonial Treasurer, and I was not in a position then to speak in an official capacity, and to give him a definite answer. I said that as soon as I occupied that position, if I were the chosen one, I should go into the matter. I had not been in office for twenty-four hours before I called upon Captain Jackson, who has charge of the wharves in Sydney, to give me a report. I have only had that report in my department, I think, for two days. I determined to visit the wharves yesterday, and I did so at 3 o'clock in the afternoon. I think I kept my promise so far. On visiting the wharves yesterday with Captain Jackson, I was informed of certain requisitions which were made in 1889 regarding the barricades, and I determined then that until I knew the terms of those requisitions I should not be in a position to give the hon. member a decisive answer.

Mr. CRICK: They were not there in 1889!

Mr. BRUCE SMITH: No; but I say there was a requisition for them. I have not had time to look at the papers yet. Hon. members must know that there are other questions to be considered in connection with the Treasury Department besides the question of the barricades. I shall endeavour to alter my deportment towards the hon. member for West Sydney. My words, I think, cannot be taken exception to. I can only give the hon. member a promise that as soon as I have calmly come to a determination upon the subject, I will convey my answer to him. I shall not delay it; I shall have the courage to let the House know exactly what I intend to do in the matter. I can only say I shall be very glad to set the mind of the hon. member for West Sydney at rest, for this question seems to agitate him very much. He must, however, give me, with the very slow brain I have, time to consider the question. I cannot arrive at a conclusion as quickly as he can, but I think I can promise him he shall have an answer not later than next Tuesday.

Mr. CRICK: The Colonial Treasurer has told the hon. member for West Sydney that he will try to alter his deportment to him, and that he is sure his words last evening conveyed no insult. Whether the words or the deportment of the hon. member last night conveyed an insult or not, I will not say; but his words to-day convey a direct and unpardonable insult. The hon. gentleman wishes to twit the hon. member for West Sydney with having a very quick brain compared with his own. Of course, the inference to be drawn is that the Colonial Treasurer has a very quick, brilliant, flashing brain, and that the hon. member for West Sydney has a very shallow brain. I am not going to enter into the question of the quality of the brain of the Colonial Treasurer. I am not much in the butcher's line, and I shall, therefore, not discuss that matter. The hon. member, however, can well come to a decision as to the removal or otherwise of the barricades without reference to any requisitions which were made in 1889. If these requisitions were made in 1889 the government of the day, of which the present Premier was the head, and of which the present ministers were supporters, must have come to the conclusion that the barricades were not required in that year.

Mr. BRUCE SMITH: The wharves were not there in 1889!

Mr. CRICK: The Colonial Treasurer says the wharves were not there in 1889 Has the hon. gentlemen descended from the clouds?

Mr. BRUCE SMITH: I am referring to the Messageries Maritimes and the Peninsular and Oriental Company's new wharves!

Mr. CRICK: No one is more irritating in his interruptions than the Colonial Treasurer, and no one is more put out by interruptions. The hon. gentleman says the wharves were not there in 1889. There

are hon. members in the House who, I dare say, know whether they were there or not. I am not going to pass an opinion. At any rate, in 1889, when the Government received the requisition for these barricades—because I take it these are the requisitions the hon. member refers to—they did not think fit to erect them. This is the first time, I suppose, any hon. member has heard of these requisitions for barricades. When were the barricades erected? There is no denying that they were erected during the time of the strike. Does the Colonial Treasurer dare to say that he desires the House to infer that the barricades were erected in answer to the requisitions? He does not dare, thick as he proclaims himself to be in the head —and that is a quality which I shall not deny him—to do it. We all know—and we have the utterances of the late Colonial Treasurer in support of it—that the barricades were erected for the specific purpose of keeping the unionists back from the wharves during the late strike; and the late Colonial Treasurer, if my memory serves me correctly, stated that, not only to the House, but to a deputation. But whether that is so or not, we all know that these barricades were put up to keep back what was then termed a lawless mob, and to afford protection to the pastoralists and to those who were trying to ship their wool in spite of union labour. Whether the barricades were required or not, the fact remains that they were erected at a time of great industrial disturbance, and that their maintenance conveyed day by day to the eyes of everybody who saw them the fact that they were erected during the strike. If they were necessary, it would be far better for the Government to demolish them, and to take some other means for the protection of the wharves. If the hon. member for West Sydney is to be taken as an authority, and he seems to speak with some authority on the matter, the Colonial Treasurer had no necessity to pay a visit of inspection to the wharves at 3 o'clock this afternoon. The hon. gentleman went down to the wharves at 3 o'clock this afternoon, in company with whom? Did he take the course taken by the Premier, and invite the hon. member for West Sydney, who is opposed to the barricades as much as he is to the wearing of a high hat, to accompany him? No; he took with him Captain Jackson. I do not know whether this gentleman is interested in the shipping association or not.

Mr. DIBBS: He is a government officer!

Mr. CRICK: One thing which the hon. member for West Sydney might well complain about, is that the head of the Government took the matter in hand and asked him to meet him on the wharves and inspect the barricades, after which he would come to a conclusion. The hon. member for West Sydney went to the wharves, and although there seems to be some doubt as to whether he had to skirmish after the Premier, or the Premier had to skirmish after him, they did eventually meet, and after a thorough inspection of the barricades, they drove back together—I do not know whether they had luncheon together. That is worse than wearing a tile hat. The head of the Government inspected the barricades, and surely he could have come to a decision with regard to these structures, unsightly not only to the eye but unsightly in this respect: that they must inevitably recall the days of the greatest industrial disturbance that Sydney ever saw. I understand it is upon that ground the hon. member desires to have them removed. He does not object to the Government or the owners of the wharves taking any steps necessary to protect their property, but he does say that these structures, symbolical as they must be of a struggle that we are glad is over, and that we do not want to see renewed, should be removed. This is not a grave question. Even an hon. member of the thick-headedness which the Colonial Treasurer claims—which we have always accorded to him—should be able to come to a decision. If not, the Colonial Secretary could come to some decision, and state what it was. He must have arrived at some decision after inviting the hon. member for West Sydney to meet him there, otherwise he must have been poking fun at the hon. member. The House and the hon. member would like to know what decision he arrived at, and how it has come about that the question has been removed from his shoulders to the lazy shoulders and thick head of the Colonial Treasurer?

Mr. DAVIS: Notwithstanding the remarks of the Colonial Treasurer I think every one is quite satisfied that these

barricades are simply reminiscences of the great maritime strike. Notwithstanding what excuses the hon. member may bring forward we, and the public generally, are thoroughly satisfied that had there been no maritime strike there would have been no barricades. Then why should the barricades be kept there now when the strike is over, and when it ought to be the object of every one in the community to efface as much as possible anything that remains connected with the strike? In Paris they have had revolutions and barricades; but when a revolution was over the barricades disappeared within forty-eight hours. Why should we in Sydney have these cumbersome, ugly, and unornamental barricades around what ought to be an ornamental quay frontage? If any carts arrive by the North Shore Ferry after 6 o'clock, instead of having a decent road by way of Circular Quay they have to go up a very steep hill, and they sometimes get stuck-up on the hill.

Mr. BRUCE SMITH: No, the gates are open until 8 o'clock at night!

Mr. DAVIS: That is only very lately, because I can tell the Colonial Treasurer that complaints have been made by the North Shore people. Something has been said about the various steamship companies. I would point out that it was only a year or two ago when the Orient Steamship Company used to berth their steamers alongside the present imperial Ordnance Stores. There was no shed, barricade, or anything else to protect cargo. From the time cargo drops out of the sling it is at consignees' risk. Then how can the excuse be made that as these companies pay several thousands of pounds per annum, they should have this, that, or the other provided for them? No matter what the Colonial Treasurer may put forward with regard to his experience in shipping, I can tell him that there are members in this House who have had quite as long an experience in colonial shipping as he has had, and we are thoroughly satisfied that whatever remains on the Quay at present in the shape of a barricade is simply a menace to the people. We look upon it as a reminiscence of what ought to be regarded as a bygone. For that reason I advocate the removal of the barricades at once.

Mr, WILLIS: If anybody is to blame for this motion of adjournment it is the Colonial Treasurer, because his answer to the hon. member for West Sydney last night was anything but courteous or satisfactory. Had he informed the hon. member for West Sydney that he would be prepared to give a reply next Tuesday I do not think this motion would have been moved to-night. However the hon. member has taken a very proper course, and it will be found out in this Parliament, as it was in the last, that it is the only course open to hon. members who want to wring an answer from the present occupants of the Ministerial benches. I hope the Government will have this matter decided once and for all, and that they will inform the House at the earliest opportunity either that the barricades are to remain as a monument of their folly and mismanagement, to show how they acted against the masses in the late maritime strike, or that they are to be removed, so that all traces of that time, which we look back to with regret, shall be wiped away. I do not think there should be a long debate on the motion. The Colonial Treasurer has told us that he will be prepared on Tuesday to give a definite reply, and I do not suppose that the prolonging of this debate will have any effect upon the decision of the Government. We have heard a great deal about waste of time, the blocking of one man one vote, and about long speeches. On this occasion I think hon. members should allow this matter to go until next Tuesday, until we see what reply will be given, more especially as a very important measure is placed first on the business-paper, that is the Crown Lands Act Amendment Bill, the importance of which was referred to last night.

Mr. MURPHY: One feature in connection with these barricades seems to have been misconceived or misapprehended, or wrong information has been given to the House as to the necessity for ever having to erect these structures. It is claimed that the barricade is in existence for the protection of cargo; but neither the Peninsular and Oriental Company's steamers, nor those of the Orient Company, nor any of the large mail boats that lie on that side of the Quay, are affected by the barricade of which the hon. member for West Sydney complains. The barrier on the eastern side of the Circular Quay is placed in such a position that it would not protect 1 lb. of cargo placed anywhere near

it. When the the Peninsular and Oriental Company occupied the other side of the Quay a few months ago, they blocked up that side completely. Now the company's boats are altogether on the opposite side of the Quay, end there is no necessity for the barricades on either side. With the hon. member for West Sydney (Mr. Kelly) I hope that on Tuesday next an answer will be given by the Government, not that the barricade is necessary, but that it is absolutely certain that it will be removed.

Mr. HOYLE: I should not have spoken but for the statement of the Colonial Treasurer. The hon. gentleman's excuse was so thin that I trust the hon. member for West Sydney (Mr. Kelly) will not accept it, but that he will peg away at this matter until the barrier is removed. The hon. gentleman must be aware that, with the exception of a favoured few, private steamship companies have to protect their own storage accommodation at their own expense. There are no barricades in Sussex-street, or at any of the wharves in Darling Harbour. The barricade at Circular Quay was erected during the recent strike to keep back the unionists, and to permit of free labourers taking their places. There is no excuse whatever for its retention at the present time. It is no more a part of the duty of the Government to protect the goods of the steamship owners than it is a part of their duty to protect goods in my back yard. It is the duty of persons having goods of any description whatever to themselves find accommodation and protection for those goods. I trust, therefore, that we shall hear no more excuses of this kind, but that the barricade will be removed at once, seeing that it is a source of friction, and the cause of much soreness to workmen in that locality. I trust that, if the barricade be not removed at an early date, the hon. member for West Sydney will not abandon the question. I promise him that I will help him in the matter, even though the course taken may have the effect of obstructing public business, until this obstruction to one of the principal public thoroughfares in the city is removed.

Mr. DIBBS: Before the question is put I should like to say a few words in the first instance, with a view to correct the statement of the Colonial Treasurer that the wharves at the Circular Quay were not in existance until after 1889, when a requisition was made for some structure there. The only good served by this discussion is: that it has brought to light the weak-kneed conduct of the Government. Either this barricade is required or it is not required. If it be required for the protection of public property landed on the wharf the Government should have the courage of its position, and should at once inform the House that it will allow the barricade to remain where it is. Why should the time of the House be occupied as it has been to-night by this motion, and night after night by the putting of questions to ministers from both sides; and why should ministers leave their offices to inspect this barricade—the Colonial Treasurer not even knowing that the wharves of which he spoke were in existence as far back as 1883 and 1884? The Government want to conciliate the labour party, and they want to say that they will remove the barricade; but if it be required for the protection of the public interest, let the Government appeal to the commonsense of members of this Chamber and keep it where it is. If the barricade was merely erected temporarily, and remains merely as an evidence of the unfortunate dispute between capital and labour, it ought to be removed. I object to the Government making a question of this character of such importance. I cannot understand ministers travelling about the city in connection with this barricade. I cannot understand the Colonial Secretary, for instance, travelling about with the hon. member for West Sydney (Mr. Kelly), making him the laughing-stock of the whole community, nor can I understand the Colonial Treasurer inserting the paragraph he inserted in the newspapers a few days ago, in which it was stated that the hon. gentleman intended to visit the barricade at a later hour of the day and to arrive at a decision in the matter. The matter is of too trivial a character to waste the time of the House in this way, and it only tends to show the capability of the Government to be squeezed by a certain party in this House.

Mr. KELLY, in reply: I do not desire to say much. I believe the Colonial Treasurer has again given his assurance that this matter will be finally dealt with on Tuesday.

Mr. BRUCE SMITH: I never gave the hon. member a definite promise before!

Mr. KELLY: The hon. member certainly did. He is as slippery as an eel—it is impossible to hold on to him. The hon. member has accused me of not having as much brain activity as he has.

Mr. BRUCE SMITH: I said the hon. member had more!

Mr. KELLY: Probably I have. As long as I am here I will give expression to my own ideas, and I shall not be found admitting, as the hon. member admitted in connection with the question of federation, that he was putting forward the ideas of other persons. The hon. gentleman was a little in error when he stated that there were no wharves at the Circular Quay in 1889. There was no shed there at that time, but there were wharves, although, perhaps, not with the same accommodation that we find to-day. There was a description of wharf; the cargo had to be landed by means of a long stage, and it lay upon the Quay without any protection whatever. I learn to-night for the first time—and I am sure other trades-unionists learn it also—that this barricade was erected—at least that was the interpretation I put upon what the hon. member said—at the requisition of a certain number of gentlemen. I never knew that before.

Mr. BRUCE SMITH: I never said so!

Mr. KELLY: It is very hard to determine what the hon. member does say at times. It is one of his characteristics that he wriggles about in such a fashion that one cannot understand what he says. I have no desire to waste the time of the House, but if the hon. gentleman does not have this barricade removed, or if he will not give us some definite answer on Tuesday night with respect to it, I will move the adjournment of the House upon every Government night during the session until the Government take action.

Question resolved in the negative.

CROWN LANDS ACT AMENDMENT BILL.

Motion (by Mr. BRUNKER) proposed:

That Mr. Speaker do now leave the chair, and the House resolve itself into a Committee of the the Whole, for the consideration of the amendments made by the Legislative Council in this bill.

Mr. COPELAND: It is not my intention to oppose the motion, but I think it desirable in the full House to draw the attention of hon. members to the provisions of the bill. I am quite sure that no hon. member desires to do an injustice by it; but when I addressed the House before I was sure that the bill would do an injustice, and my protest drew the attention of the Legislative Council to the necessity for amending the bill, though unfortunately they have amended it a little too much. They have gone from one extreme to the other. The bill as it left this Chamber protected the interests of the original conditional purchaser to the utter detriment of a second man who might have selected the land after it was forfeited. His interests were utterly ignored. The Legislative Council, however, in considering the matter have gone a step too far, and the effect of their amendment is to protect the second selector to the absolute detriment of the original selector. I am sure that no hon. member desires that a bill should be carried into law to have that effect, and I desire to draw the attention of hon. members to the matter before the House goes into Committee, because it will be almost impossible to obtain sufficient attention to it there. The amendment of the Legislative Council to which I refer is as follows:—

and no provisional or absolute reversal hereafter to be made of any forfeiture shall defeat any valid application for a conditional purchase or conditional or homestead lease which shall have been lodged before the receipt by, or on behalf of, the Minister of a request in writing for such reversal, unless the applicant shall consent in writing to such reversal.

The effect of that will be—and I think the Minister will agree with me when I point the matter out to him—that, although the Minister may be absolutely certain that the forfeiture of a selection should be reversed in the interest of the original holder of the land, if a second man has in the meantime selected it, he cannot do justice to the first selector. I am sure that the House does not desire that this should be the state of affairs, nor can I conceive that the Minister would desire such a provision to pass into law. As long as our present land legislation remains in force there must of necessity be forfeitures, because it imposes a number of conditions with which selectors are expected to comply, and if they are not complied with the probabilities are that the

Minister has to forfeit the conditional purchase. But while ministers continue to be human beings they must of necessity make a wrong forfeiture occasionally. There may be only one wrong forfeiture in a hundred, or even in a thousand; but if there is only one in a thousand, the bill, which has been introduced for the express purpose of dealing with these wrongs, must be framed equitably for all parties. If the bill had become law as it left this Chamber, the Minister would have been able to rectify a wrong by reversing a forfeiture so as to give the forfeited land back to the original holder of it; but he would have had to do the utter injustice of depriving the second man of his equitable claim to the land, although that man might have been in possession of it for several years, and might have erected a house on it and fenced and cleared it, or made other improvements upon it. The Minister would have been compelled to utterly ignore all the rights of the second conditional purchaser, and to hand the land back again to the man who held it originally. But while it is a proper and a desirable thing to enable the Minister to do justice to the first selector, we must not do an injustice to the second man. We must provide for compensation to the second man, who has taken up the land in good faith. Under the existing law, the Minister cancels a selection; within thirty days after the gazettal of that cancellation it is thrown open to selection, and if by reason of the advertisement that the land is open to the world for conditional purchase, a second man comes along and applies for and obtains the land on the approval of the local land board, and goes on to it for the purpose of residence, building a house upon it, fencing it, and complying with all the conditions, it is a monstrous injustice for Parliament to pass a law enabling the Minister to go behind that man and do an injustice to him. The Council saw the injustice of the bill as it left this Chamber, and amended it accordingly. In a conversation which I had with a member of the Upper House I was informed that they were placed in this unfortunate position: that through our neglect to do our duty they had not the power to do their duty, because if the Legislative Council had made the amendment which they wished to make providing for compensation they would have been infringing the rule with regard to the initiation of money bills, and have been brought into conflict with the Assembly. They would have gone beyond their constitutional powers, and as soon as the bill was returned to this House the Government would have had to throw it under the table. The amendment of the Legislative Council, whilst it protects the interests of the second selector, who may have taken up the land after forfeiture, precludes the Minister from going behind that second selector to do justice to the original selector. Of course what is wanted is that both parties shall be protected; that where a second man takes up land that is gazetted as forfeited his interests shall be protected. If the Minister finds that he has wrongly forfeited a selection he should be able to go behind the second selector, and restore the land to the original holder. That is how the bill was framed when it was passed by this House. But then the objection I raised was that whilst the bill enabled the Minister to do justice to the original selector it debarred him from doing justice to the second selector. It is perfectly clear that the Minister cannot give the land to both parties. Where land has been forfeited and then taken up again he must give it to either the first or the second selector. If he gives it to the first selector and it turns out that the second man has taken up the land under the law, and put improvements on it, then it is perfectly clear that he should be entitled to compensation, because he has only acted within the law when taking up the land, and the land board will have confirmed his title. If the Minister finds that he has to go behind his former action, that through false evidence or some misunderstanding his former action of forfeiture was wrong, and that it is necessary to restore the land to the original holder, then I say he should have power to give compensation to the second man, who may have spent a year or two on the land and laid out a lot of money in improvements. The bill, as amended by the Council, enables the Minister to give the land to the second man, but makes no provision for his going behind the second application and restoring the land to the original holder.

Mr. CRICK: It makes provision to give the land to both as it stands at present!

Mr. COPELAND: No; it does not. The Council's amendment says:

> And no provisional or absolute reversal hereafter to be made of any forfeiture shall defeat any valid application.

That is perfectly clear.

Mr. BRUNKER: It is not right that it should either, I suppose. No matter whether it is the first or second, if it is a valid application, it ought not to be defeated!

Mr. COPELAND: It should not be ignored, but you must defeat it. I should like to point out that the Minister cannot restore the land to the original applicant, although his forfeiture of the original applicant's title may be a wrong forfeiture. He may be thoroughly convinced that it is a wrong action, but he cannot undo the wrong without defeating the second application. The effect of the Council's amendment is to protect the second selector entirely at the expense of the first man. What I propose to do, when we get in Committee, is to omit the word "defeat" and insert these words: "debar from equitable rights to compensation." If my amendment is carried, the clause will then read:

> And no provisional or absolute reversal hereafter to be made of any forfeiture shall debar from equitable rights to compensation any valid application for a conditional purchase or a conditional or homestead lease.

The object of my amendment is to say that if the Minister has done wrong he must restore the property to the rightful owner. But in doing so, he must not do an injustice to the man who selected the land the second time, if he has complied with the conditions of the law. That is perfectly plain. I do not know whether the Minister has got a grip of my argument. It is clear, that if the Minister does a wrong act, he or the department must suffer for the wrong, and no individual ought to be expected to suffer.

Mr BRUNKER: They suffer now!

Mr. COPELAND: What is the good of the Minister saying that they suffer now? The bill has been introduced for the express purpose of doing away with that wrong. We admit that there is a wrong. If the bill is passed it will only remove the difficulty from the second to the first selector. Surely that is not intended. According to a decision of the Supreme Court, the law now is that if the Minister forfeits a conditional purchase, no matter how wrongly the Minister may have taken action, no matter how great the injustice may be to the first selector, still, if the land has become selected again the second selector owns it, to the detriment and loss of the original selector, whose title has been wrongly forfeited by the Minister, because the Supreme Court has interpreted the law to mean that the Minister has no power to reverse a forfeiture. The bill gives the power to the Minister to reverse a forfeiture, and it is very proper that it should.

Mr. BRUNKER: That is not a correct statement to make. The Supreme Court has decided that the Minister cannot provisionally reverse a forfeiture!

Mr. COPELAND: It comes to the same thing. Whatever the Supreme Court has decided, I venture to say the Minister has no legal right to reverse; he cannot deny that. Every minister who has sat in the Lands Office knows perfectly well that no act gave the Minister the power to reverse a forfeiture. The old acts gave the Minister the power to forfeit, but no power to reverse a forfeiture. Every minister has taken upon himself, under cover of the Acts Shortening Act, a power which the law does not give him; but he has exercised that illegal power because he thought it necessary to do so in the public interest. The bill gives the Minister that power; but although the Council's amendment provides that the Minister shall have the power to reverse a forfeiture, it distinctly limits his power in this respect: if it should happen that while the conditional purchase has been in a state of forfeiture another man has come along and selected the land, the Minister has no power to do justice to the man whose selection has been wrongly forfeited.

Mr. STEVENSON: How would the hon. member amend the provision?

Mr. COPELAND: I propose to omit the word "defeat" and insert the words "debarred from equitable rights to compensation." The clause, so amended, will provide that while the Minister shall be able to give the land back to the original holder, the second man shall not be debarred from equitable compensation.

Mr. CRICK: How does the hon. member propose that the compensation shall be arrived at?

Mr. COPELAND: I cannot undertake to amend the bill. If I were drafting the bill I would draft it in a different way; but the bill is here, and an amendment must be in accordance with the clause as it stands. I am quite sure that my amendment, if accepted, will have the desired effect: it will recognise the equitable rights of the second man. But the bill as it is now gives everything to the second man, and nothing to the original man, whose title has been wrongfully forfeited. Of course if it has been rightfully forfeited he deserves no consideration. If it is a legal forfeiture we need not consider his case. But as long as the law imposes conditions which have to be fulfilled we shall always have cases where forfeitures must be made by the Minister, and so long as he has to forfeit there must be a certain percentage of wrong forfeitures; that is, forfeitures made either through false evidence or misrepresentation. He will find occasionally an instance where it is desirable for him to reverse his former action and give the land back to the original holder. The bill will prevent him from doing that. In their anxiety to protect the second man's equitable rights, the Council have overstepped the mark and ignored the rights of the first man; but, if my amendment be carried, the rights of both parties will be protected. If any one takes up land because the Minister has told him that it is open to be taken up, and he suffers any loss, I submit that the department ought to compensate him for his loss; that the Minister should not be able to shield himself to the detriment of private individuals. Of course it will not happen very often; but, if it happens only once in 100 years, an injustice should not be done. I have spoken now so as to forewarn hon. members of my intention in Committee, as very often in Committee not much notice is taken of what a member says.

Mr. CRICK: There is a good deal in what the hon. member for New England has said, and I am afraid that the Minister will find it necessary to disagree with all the Council's amendments. As far as I can see, these amendments are no improvement on the bill as it left this House, and they open up a good deal of danger. I do not wish to refer to the details of the bill, but I may point out to the Minister and the House that a well-known rule of construing acts of Parliament is that, where a later clause overrides an earlier clause, the earlier clause is impliedly repealed. There is no doubt in the world that a later clause of this bill entirely overrides an earlier clause. In order that I may make no mistake, let me quote from a standard work, "Maxwell on the Interpretation of Statutes":

> When two passages of an act are so repugnant as to be mutually destructive the earlier passage gives way to the latter, which is taken, as in a will, to speak the latest intention. A difference, however, is said to exist in this respect between the effect of a saving clause or exception and a proviso in a statute. When the proviso appended to the enacting part is repugnant to it it repeals the enacting part.

Further on in the same volume it is laid down:

> But it is impossible to will contradictions, and if two passages are absolutely repugnant the earlier stands impliedly repealed by the latter.

We must look at the bill to see whether any provision is impliedly repealed by a later clause. If hon. members will compare sub-clause III of clause 3 with the proviso to clause 4, they will see at once that the proviso absolutely repeals the sub-clause. The sub-clause reads:

> Any absolute reversal of a forfeiture shall be deemed to have related back or shall relate back, as the case may be, to the date when such forfeiture has been or shall be notified, declared, or otherwise asserted or enforced, and shall be deemed to have had or shall have the same effect as if the forfeiture so reversed had never been notified, declared, or otherwise asserted or enforced.

So that, no matter what rights there were up to the date on which the Minister declared the forfeiture, once he declares the reversal of the forfeiture, the effect of the sub-clause is to throw away all legal estates ulteriorly acquired, and to reinstate the original holder in his legal and first possession. The proviso to clause 4—for which I do not say the Minister is responsible, because it is one of the amendments which the very able gentlemen upstairs have introduced—says:

> And no provisional or absolute reversal hereafter to be made of any forfeiture shall defeat any valid application for a conditional purchase or conditional or homestead lease which shall have been lodged before the receipt by, or on

behalf of, the Minister of a request in writing for such reversal, unless the applicant shall consent in writing to such reversal.

Although sub clause III of clause 3 gives the Minister the power to reinstate the first selector on his land, the proviso to clause 4 says that if, after that forfeiture has been declared in accordance with law, any ulterior estate crops up—if any man comes along and selects the land, and has his application confirmed by the land board—the reversal shall not defeat any valid application for a conditional purchase, conditional lease, or homestead lease. In other words, it simply says that whatever power we give to the Minister under sub-clause III of clause 3, we take away from him by this proviso. If the Minister accepts this amendment, he may as well tear the bill in two and throw it under the table. The only position for the Minister to take up is to stand firmly by the bill as it left the Chamber. I do not see my way to support the amendment of the hon. member for New England, but I do see my way to suggest to the Minister that we shall knock out the whole of the amendments of the Legislative Council. Sub-clause v of clause 3 simply says that the responsible Minister is to be rid of all responsibility, is to have none of that discretionary power which it is necessary he should have, and that he should be bound hand and foot by the decisions of a local land board. There must be a certain discretionary power vested in the Minister; otherwise there is no necessity for a minister at all. Sub-clause v of clause 3 has been inserted by the Upper House in lieu of clause 6 of the bill as it left the House. In that sub-clause it is stated:

> In any case where a forfeiture has been or may hereafter be duly notified or declared for any cause other than the non-payment of money, the Minister shall, before absolutely reversing such forfeiture, refer to the local land board for inquiry and report as to any fact or circumstance in virtue of which he proposes to make such absolute reversal as aforesaid. And such board, or the Land Court, upon any appeal or reference shall inquire into such fact or circumstance and make a report and recommendation thereon to the Minister.

Whilst we say that the Minister shall have power to absolutely reverse forfeitures, in cases of extreme hardship which may be brought under his notice, and in such a manner that we, the representatives of the people, could demand the reasons for those reversals, what does the sub-clause further say? It says:

> And in any such case no absolute reversal of such forfeiture shall take place except on the recommendation of such board or court.

In other words, if the Minister is satisfied that the circumstances are such that he ought to reverse the forfeiture, that it is a case of extreme hardship in which he might well exercise the discretionary power vested in him by Parliament, backed up by a unanimous vote of the House, expressing satisfaction at his action in reversing the forfeiture, he is absolutely powerless if three men somewhere up country say they will not recommend it. It may be said that an appeal may be made to the court. Well, the court may not feel disposed to differ from the board. I say the discretionary power must and should be vested in the Minister, for if there is any discretionary power left to him at all, it should be in cases of extreme hardship. Therefore, I should advise the Minister to strike the last sentence out of the sub-clause, as it is an encroachment on ministerial discretion which we ought not to tolerate. I throw out these few hints because I, too, feel there must be some debate on the bill in Committee. I trust the Minister will remain firm, and will not accept the proviso to clause 4, because it simply overrides whatever power is given to him by sub-section III of clause 3. All the power contained in that sub-section is absolutely taken away by the proviso to clause 4. I trust the Minister will refuse to accept that amendment, and, as to sub-section v, I hope he will strike out the last sentence.

Mr. BARBOUR: There is no doubt this bill is required, and the sooner we pass it the better. I think the remarks made by the hon. member for West Macquarie are to a large extent valuable and important, but the amendment of the hon. member for New England will harmonise the apparent discrepancies which have been pointed out.

Mr. BRUNKER: I have no objection to it!

Mr. BARBOUR: The words,

> And no provisional or absolute reversal hereafter to be made of any forfeiture shall debar from equitable rights to compensation any valid application,

will harmonise the objection which the hon. member for West Macquarie has mentioned.

Mr. CRICK: It will not!

Mr. BARBOUR: I think it will. I am now referring to the last sentence of sub-clause v, clause 3. There is a good deal in what the hon. member says as to retaining the power in the hands of the Minister; but with regard to the apparent discrepancy of a subsequent provision overriding a former one, there is no doubt that if the amendment of the hon. member for New England is adopted it will remove that apparent discrepancy. I do not think the amendments made by the Upper House in the other clauses will interfere with the general provisions of the bill. These two amendments can easily be made in Committee, and I have no doubt we shall make them, and pass the bill, and allow it to come into law as soon as possible.

Mr. CRUICKSHANK: The bill was introduced the other night at a very late hour and was hurried through the House, and I do not think hon. members had a proper opportunity of considering its details. I only had the opportunity of looking at the bill myself for two or three minutes, and in touching upon one of the clauses I suggested that certain amendments should be made with regard to the powers of the Minister in dealing with reversals of forfeiture in the future. I see that the Upper House has taken the very course I suggested, and has dealt with the power given to the Minister of reversing forfeitures in the future. In discussing this point with several hon. members who have, perhaps, not had an opportunity of dealing to any great extent with land matters, it appears to me that the objections of the hon. member for New England may be divided into two parts. The bill, as it was first introduced and sent to the Upper House, shows that, as the law exists at present, the Minister can only forfeit selections upon a certain report from the land board; but he has no power whatever to reverse those forfeitures. We will say that for a number of years selectors have been taking up selections. We will call A the original selector. Perhaps years afterwards, these selections having been forfeited and the forfeiture reversed by the Minister who had no power to make such reversal, B came in, and took up one of the conditional purchases of which the forfeiture had been reversed. By an appeal to the court it turned out that the Minister originally had no power whatever to reverse the forfeiture, consequently it was held that B's application was perfectly valid, and the original selector lost his land. The Minister, knowing he had reversed such a number of forfeitures, considered it necessary to introduce a bill to validate those reversals. Now, the question arises, having in the Land Bill of 1884 endeavoured to take the administration out of the hands of the Minister as much as possible, and place it in the hands of land boards, whether this power of reversing forfeitures should still remain in the hands of the Minister? If this bill passes as it stands, A holds his selection as in the old case. He applies for his land, the Minister forfeits his selection. We do not give the Minister power in the future to reverse that forfeiture, although we are confirming what he has done regarding the reversals of forfeitures in the past. He would have to refer the matter to the land board—first of all to ascertain whether they thought that it was a case in which the forfeiture ought to be reversed. It appears to me that the hon. member for New England, Mr. Copeland, is afraid that in the meantime the second selector, whom I term B, would come in and take up A's selection before the board had time to report, and that he, taking possession of the land, would be entitled to compensation. One or the other must get the land, and the selection having been forfeited and gazetted as open to selection, the second man stepping in, as he had a right to do, taking up the land, and spending money on improvements, would be entitled to some consideration. Consequently there is great point in what the hon. member for New England, Mr. Copeland, says. Until the time when the cases cropped up, it was not known that the Minister had not power to reverse the forfeitures. The original selector in the case which has led to this legislation certainly went to the wall; but when that case came to the front, and it was made known that the Minister had no right to reverse the original forfeitures, the Minister immediately introduced this short bill to make invalid any applications made for forfeited selections after a certain date, and we are validating and putting on a sound footing all original selections. Is it likely that if the Minister recommended a forfeiture,

and had to refer the matter to the land board, so as to ascertain whether the forfeiture ought to be made, a second selector would come in in the meantime? Although the land board recommended a forfeiture, the Minister would naturally suspend making it until after he had referred the case back to the land board. If the land board on further consideration thought that there was no necessity to enforce the forfeiture, the Minister need not enforce it, or, on the other hand, it might be kept in a state of suspension until it was sent to the land board, and if they, on making further inquiries, thought that it was advisable to reinstate the original selector, I think that the Minister should, between the time when the board recommended the forfeiture and its taking place, very carefully guard against the land being thrown open to selection until it was decidedly settled that the rights of the original selector were entirely irrecoverable.

Mr. BARBOUR: That is provided for in sub-clause II.

Mr. CRUICKSHANK: I think that it is sufficiently covered by the bill; but at the same time there is a great deal in the argument of the hon. member for New England, Mr. Copeland. What he wishes to enforce is that if a second selector comes in and takes up the land, and is put to any expense, and if the original selector is reinstated, the second selector should be compensated and receive fair and just consideration.

Mr. WALL: There is one portion of the amendments made by the other Chamber, to which I do not think any minister is likely to assent, and I trust that the House will not do so either. No minister should surrender the right to make reversals of forfeitures; but the bill, as now submitted to the House, takes away from the Minister the whole control in connection with the reversal of forfeitures.

Mr. BARBOUR: No, it does not. He sends to the board for the facts!

Mr. WALL: The land board and the Land Court were appointed simply for the purpose of interpreting the law, and the Minister in the exercise of his power to reverse forfeitures, was not in all cases guided by the law; but if the bill be passed in its present form it will confine the Minister to reversals of forfeitures in accordance with the recommendation of the land board; and judging from the interpretation of the law in the past, it is evident to me that the land boards are not likely to recommend any forfeiture on humanitarian principles, but strictly in accordance with their interpretation of the law. If the Minister is tied hand and foot, and the power to reverse forfeitures is taken away from him, whatever may be the equity of the case, and he is compelled to be guided by the legal aspect of the case, I think the Minister will surrender a power that has been very judiciously exercised in the past, and such as should be vested in all ministers having the control of public departments. If the Minister is going to be tied down to the strict letter of the law, as he would be by the bill—for in every case before exercising his authority he would be compelled to refer the matter to the Land Court or land board, and act on the recommendation of the Land Court or land board in exercising his power to reverse forfeitures—I do not think that that is a position that any minister should take. The land boards were established in order that we might have a strict interpretation of the law; but it was not intended that they should take from the Minister the whole of his administrative power. I trust that the House and the Minister will not assent to it.

Question resolved in the affirmative.

In Committee:

Motion (by Mr. BRUNKER) proposed:

That the Committee agree to the Legislative Council's amendments in clause 3.

Mr. CRICK: I desire to move an amendment in sub-clause v.

Clause 3, sub-clause v. In any case where a forfeiture has been or may hereafter be duly notified or declared for any cause other than the non-payment of money the Minister shall, before absolutely reversing such forfeiture, refer to the local land board for inquiry and report as to any fact or circumstance in virtue of which he proposes to make such absolute reversal as aforesaid. And such board, or the Land Court, upon an appeal or reference, shall inquire into such fact or circumstance and make a report and recommendation thereon to the Minister. And in any such case no absolute reversal of such forfeiture shall take place except on the recommendation of such board or court.

Mr. BRUNKER: Before discussing the amendments to which I ask the Committee to agree, as made by the Legislative Council, I say at once that in asking

hon. members to accept the amendment in clause 4 I am quite willing to accede to the suggestion made by the hon. member for New England, Mr. Copeland. I am sure no hon. member will object to the suggestion that he has made when they know exactly what the words are. The hon. member for New England proposes to omit the word "defeat," and insert "debarred from equitable rights to compensation." No hon. member, or honest-minded man out of the House would seek to debar a man from his equitable rights to compensation. They have to be fairly considered, and in my opinion it is simply a change of words to effect an object, which, perhaps, would be just as well effected by the amendment made by the Legislative Council. However, I am quite willing to accept the amendment which has been suggested by the hon. member for New England, because with his knowledge of the land question generally it is quite possible it might effect something which I cannot see. However it will effect this: It will prevent no one who has rights to compensation from having them considered. The hon. member for New England said that he knew that the Minister never had power under the law to reverse a forfeiture. I have here a judgment delivered in the Appeal Court by the hon. member, in which he says:

> The question raised is as to whether the Minister has power to reverse a forfeiture. It seems to me clear that the acts always contemplated that the Minister should have that power.

Mr. COPELAND: If the hon. member will pass over the book to me from which he is quoting, I will show that I am perfectly right, and that I took up the same position then that I do now. The Minister ought to have the power, undoubtedly, and I support this bill in order to give that power. But that the Minister ever had the power I denied then and I deny it now. If the hon. member can quote any section of a land act up to 1890 which gives the Minister power to reverse a forfeiture, I will admit that I am wrong.

Mr. BRUNKER: It is immaterial, as we have now only to deal with the amendments made in the bill. The only alteration made in this bill by the Legislative Council, except a few verbal amendments, is that instead of the Minister having a permissive power to send these cases to the board and court for inquiry, it is made imperative. I do not object to that with the provision made in the clause, which reads thus:

> In any case where a forfeiture has been or may hereafter be duly notified or declared for any cause other than the non-payment of money the Minister shall, before absolutely reversing such forfeiture, refer to the local land board.

By this clause the Minister, in cases of non-payment of rent, has power solely to deal with these cases. But it is absolutely necessary, in the interests of the general public, as well as in the interests of the conditional purchaser, conditional lessee, or homestead lessee, that each case should be fully and fairly inquired into by the local land board, which, of course, gives fuller information to the Minister than he would have under other circumstances; and the principles of the act of 1889 which gives the conditional purchaser and conditional lessee the right to appeal to the Land Court, should be also maintained. The Minister is not only relieved of an immense amount of responsibility by the amendment made by the Legislative Council, but the rights of the public, of the conditional purchaser, conditional lessee, and homestead lessee are more fully conserved, while neither one nor the other suffers any injustice.

Mr. WALL: It is not intimated whether they shall decide on a legal point or according to equity. They are supposed to interpret the legal aspect of the question!

Mr. BRUNKER: The hon. member's knowledge of the mode of dealing with these cases must enable him to understand that it is essential in very many cases that a very full inquiry should be made, so as to enable the Minister to determine accurately.

Mr. CRICK: The Minister will have to follow the decision of the board according to this clause!

Mr. BRUNKER: The Minister will of course have to adopt the recommendation of the board, except in cases of non-payment of rent.

Mr. CRICK: Even if he disapproves of their recommendation!

Mr. BRUNKER: The hon. member is fully aware that the Minister, as well as the conditional purchaser or lessee, can appeal to the court for a decision if he is dissatisfied with the recommendation of

the board. We recognise these tribunals as fair and independent, and we have nothing to fear. When the bill was under discussion in the House the other night, the feeling and opinion expressed were that it was impossible to tell who might occupy the position of Secretary for Lands, and that it was necessary that the rights of the country, as well as the rights of those who have business with the Lands Office, should be thoroughly protected. No evil can result from a full and searching inquiry into all these cases. I think we may fairly accept the amendments made by the Legislative Council, with the amendment suggested by the hon. member for New England, which I have agreed to accept. I think we shall have very little difficulty in passing the bill.

Mr. CRICK: I beg to move:

That all the words after the word "Minister," line 13, to the end of sub-clause v, be omitted.

The words I desire to strike out are these:

And in any such case no absolute reversal of such forfeiture shall take place except on the recommendation of such board or court.

I heartily concur in all the Minister has said in regard to a full, open, and perfect inquiry. But, while I go so far with the hon. gentleman, I did not hear him urge any argument as to why he should be bound hand and foot, as the responsible Minister, by the decision of the local land board or the Land Court, as the case may be. I quite agree that it is wise to say it should be mandatory to the Minister to submit any case in which he had exercised the power of the Crown and had forfeited, and in which the original holder, the man whose land had been forfeited, was a supplicant for mercy, or, it may be, favour, and asked for a reversal of the forfeiture. It is in the interests, undoubtedly, of the conditional purchaser, in the interests, undoubtedly, of the poor man, that there should be a full and perfect inquiry as to the justifiableness of the action of the Crown, as represented by the Minister, in forfeiting his land. A case being referred to the local land board, suppose the land board recommends that the reversal take place, the Minister may reverse or he may not. But if he wishes to act, he must act upon the recommendation of the local land board.

Mr. CHANTER: He cannot act in any other way!

Mr. CRICK: He cannot act in any other way. He is not bound to act upon the recommendation. Suppose the board recommends that a forfeiture be reversed; there is nothing in the bill to say that the Minister shall reverse if that course is opposed to his sense of what is right. But suppose the recommendation of the board falls in with his own view, he may then act. So that he holds trumps, no matter which way the game goes. What I propose to say is this: that the Minister shall send the case for inquiry. Let it come finally before the minister of the day surrounded with the facts after inquiry by the land board, and, if necessary, by the Land Court, because the Crown is represented by the Minister, and if either party be dissatisfied with the finding of the land board an appeal may be made to the Land Court. That being so, the Minister should put it in one way or the other—either that he will carry out the recommendation of the local land board, or that he will not; and if he is in a position to exercise discretion for himself he should be in a position to exercise discretion for the selector. I propose to leave the law in this way: that when a case has been sent for inquiry, and all the facts are sent up to the Minister, he shall be in a position to say, "I will exercise my discretion in this matter." It may be that his discretion will run contrary to the recommendation of the land board. I know many cases where the local land board has been found, at fault. The hon. member for Mudgee, Mr. Wall, mentioned one case, and the same thing might frequently occur, where the land board decided, on technical grounds, to recommend forfeiture. No one can say that I am an opponent of the bill. I was one of its warmest supporters before it left this Chamber to go elsewhere. No one can say that I am doing anything to obstruct it; I know its urgency and necessity. Take the case of a forfeiture through a line of fence inclosing a road. Instead of it being on one side, it happens to be on the other side of the road, and the land board, having to administer the act as a judicial body, decide upon legal grounds. In the very case to which reference has been made, the land board, in the first place, admitted that the law was on the side of my client. They saw that the justice of the case was on the side of the

other man; but they decided against him. The case was taken to the Land Court, presided over by no less able a barrister than Mr. Rogers, and they, in administering the act, marked their sense of the merits of the case by not allowing my client any costs. We were taken to the Supreme Court, and that court also admitted that they were forced to decide according to the wording of the act, and although my client was what might be called a land "jumper," he got the land and his costs against O'Brien. Therein lies the necessity of this bill. If the board has to act upon technical grounds, and if the Minister has to administer the law technically, we do not want a minister. We want a minister to act in cases of extreme hardship, where justice is on one side and technicality on the other. In such cases discretion must be left to the Minister, and that is why I ask the hon. gentleman to strike out these particular words, which would rob him of that discretionary power. Surely it is quite enough that the House can say to the Minister in any case in which he has exercised his discretion, and in which there is any cause for suspicion that an injustice has been done—"Lay upon the table the papers upon which you arrived at your decision." Surely that is enough. This House will then be able to see whether the Minister has acted honestly, or whether there is something behind the scenes. I will not insult the present Minister by even suggesting such a thing in connection with him; but we might have at some future time a corrupt minister, and that is a matter that must be provided against. If the House saw that such a minister had so far forgotten his high trust, and what was due to the position he held, as to decide in an improper way, and against the evidence, Parliament would not allow the selector to suffer, but would award him compensation. I ask the Minister not to abandon his discretionary power. No one knows better than does the hon. gentleman the absolute necessity for it. If the Minister has no discretionary power, we have no use for him. We have done all we can do when we say we will surround the exercise of that discretionary power with every avenue of inquiry —when we say that we will not leave it optional, but there shall be the fullest and most ample inquiry in every direction to discover the facts, and that those facts having been discovered and put before the responsible Minister, it must be left to him to exercise his discretion. Every supreme tribunal must have a certain amount of discretionary power, except whenever it is thoroughly and absolutely hemmed in by the undoubted meaning of an act. And it was the undoubted meaning of an act that gave rise to this bill. If the Land Court had had a discretionary power at all—such a power as ought to be vested in the Minister, there would have been no necessity for this bill. The decision would have permitted the original holder—the man who had held the land for years—to still hold it. But because this power was not given, and because an endeavour was made to administer the act upon the strict technicality of the law, my client obtained the land. I shall ask the Minister to assent to my amendment, and I ask the Committee to go with me in conserving to the responsible Minister some discretionary power in the administration of the Crown lands. I trust that there will be no necessity for a division, but that the Committee will insist upon reserving to the responsible Minister such discretionary power as is absolutely necessary for the administration of our land laws.

Mr. COPELAND: I admit that there is something in the arguments made use of by the hon. member who has just resumed his seat, but we have in the law at the present time exactly the same provision as this bill contains. If hon. members will turn to section 20 of the Lands Act of 1884, they will find that it provides for exactly the same thing as this amendment. The question was debated for hours when the Crown Lands Act of 1884 was under consideration. I will quote the section to which I refer.

Mr. CRUICKSHANK: It does not make it compulsory!

Mr. COPELAND: Yes, it does. It makes it final.

Any question of lapse voidance or forfeiture whether arising under this act or any of the said repealed acts may be by the said Minister referred to the local land board ——

In the bill it is imperative that the Minister shall refer it to the land board.

and the decision thereon of the said board, after due investigation in open court shall unless appealed from in the prescribed manner be final.

In my opinion this section is a very useful one, and saves the Minister from a good deal of trouble and interviewing by persistent members of Parliament and land agents, for no sooner does a case for forfeiture crop up than you have land agents and members of Parliament, in whose electorate it occurs, going to the Minister on the subject. The hon. member spoke about the poor man being affected by the clause, but the interests of the poor man may be best conserved by the local land board and the Land Court, while the interests of the rich man may perhaps be best conserved when you leave the power in the hands of the Minister. This is the *modus operandi:* A case is referred to the land board to take evidence upon. They deliberate and come to a conclusion, and then make their recommendation. Then the selector or the squatter, as the case may be, has the right of appealing from their decision to the Land Court. Surely those two bodies should be able to sift out any injustice. They should be able to get all the necessary evidence in the case, because they can bring any witness before them, and they ought to be able to come to a wise decision, which is all that ought to be expected from them. I say it is much better to trust a case to the land board, and then, if the selector thinks that he has not got justice, to the Land Court, than to submit the Minister to political influence. The chief object of the Lands Act of 1884, which took so many months to consider, was the elimination of political influence from our land administration; but so long as we have the principle which the hon. member seeks to introduce in our land law, our land administration cannot be free from political influence, because a selector who has gone to the land board, and then to the Land Court, will make a last appeal to the Minister. We know what some hon. members are. They will worry the Minister to death if he does not reverse a forfeiture, and the Minister would, in many cases, be inclined to reverse a forfeiture, notwithstanding that the land board had advised a different procedure. I cannot see that any harm is likely to arise by leaving these matters in the hands of the Land Court, just as we leave other matters in the hands of the other courts. If there is any dispute in a mining case, or about an ordinary commercial transaction, the Minister of Justice does not reverse the decision of the District Court or of the Supreme Court; but if we allow the Secretary for Lands to overrule the decision of the Land Court, why should we not allow the Minister of Justice to overrule the decision of the District Court, or of the Supreme Court?

Mr. CRICK: So he can!

Mr. COPELAND: I trust hon. members will not give way on this point, but that they will pass the clause, as amended by the Council, if it is only to give confidence to the public. In advancing this argument, I do not for a minute wish to imply that we are going to have corrupt ministers—that is not necessary; but our laws should be above suspicion, and they will not be above suspicion if the Minister has power to go behind the recommendation of the Land Court.

Mr. BRUNKER: I admit that there is a great deal in what was said by the hon. member for West Macquarie; but the hon. member seems to have overlooked this point: that the clause of the bill, as amended by the Legislative Council, gives no greater power to the land board than they have under the law as it stands.

Mr. CHANTER: It gives too little power to the Minister!

Mr. BRUNKER: The section of the act to which I refer is that just quoted by the hon. member for New England, which has been confirmed by the decision of the Supreme Court in the case of Syme and Robertson, a case which hon. members who have business in connection with the Lands Office know perfectly well. Hon. members must know that any case of forfeiture which is referred to the local land board under the 20th section of the Lands Act of 1884, cannot be dealt with by the Minister after its return, so that the amendment of the Legislative Council in the clause simply confirms that provision, and gives the board no greater power than that which it enjoys now.

Mr. CRICK: Does not the hon. member think that the Minister ought to have the power?

Mr. BRUNKER: I do not want to have any additional powers.

Mr. CRICK: What about the Balranald cases?

Mr. BRUNKER: The hon. member knows that the Minister has always power to validate, and to withhold from forfeiture, while he has many other powers which he can exercise, if he finds it necessary under the recommendation of the board.

Mr. CRICK: Under section 20 of the act of 1884, he "may" refer; under this he "must" refer, and be bound by the recommendation of the board!

Mr. BRUNKER: The hon. member overlooks the fact that whatever decision the board arrive at after due investigation is final, and the Minister has no power to deal with the case afterwards.

Mr. HAYES: Not only had the Minister power under the 20th section of the act of 1884 to refer a case to the local land board, but where under other sections of the act appeals were referred to him he had power to decide them. The act of 1889 transferred this right formerly held by the Minister to the Land Court. There can be no question that the Minister does require to have some discretionary power. It is absolutely essential to the proper working of the act that he should have such power. Let us look at the clause under discussion, and at the safeguards which at present surround the Minister. First of all, if he proposes to exercise the right of forfeiture, he must refer the case to the land board. The land board makes a recommendation, and from this the Minister or the applicant can appeal to the Land Court. The Land Court makes a recommendation affirming or rejecting what has been done by the land board. Then we simply say that if the point is one of strict legal technicality, as pointed out by the hon. member for West Macquarie, why should not the Minister, in the exercise of his discretion, say, "Justice requires that I shall not carry out the strict legal recommendation; but I shall do what is necessary in the interests of justice to the selector"? Even assuming, as has been suggested, that we may some day have a corrupt secretary for lands, look at the safeguards that exist against any arbitrary exercise of power on the part of the Minister. Any member of the House can move for the production of the papers. We then have laid before us the evidence taken by the land board and the recommendation of the Land Court, and also the course pursued by the Minister. With these safeguards, can there be any danger in giving this discretionary power to a minister? The Minister wants the power. Over and over again these cases arise. The very fact of the introduction of this amending bill proves that the power is necessary. The Minister has exercised the power, and now comes to the House and asks us to legalise what he has done. The Land Act cannot be properly carried out unless we give this power; and many cases of great hardship and gross injustice to deserving selectors will take place. I can see no danger whatever in giving the power; but I can see that a great deal of good will result, and I shall vote for the amendment of the hon. member for West Macquarie.

Mr. BARBOUR: I hope the Minister will consent to omit this sentence of the clause, as it will be quite complete without it, and there is every reason why the Minister should have discretionary power. Many cases are occurring at the present time in which the Land Court find that they are compelled by law to declare a forfeiture, but they make a strong recommendation that the Minister shall not forfeit. This is done at almost every sitting of the Land Court, and there are cases of great hardship. I could point to a very simple class of case that occurs every day. Suppose a selector fences on the wrong side of the road, and instead of fencing along his own boundary puts the fence a chain away on the other side of the road. The matter comes before the board. It is proved that the fence is on the wrong side, but still it is a perfect fence so far as the selector and his neighbour are concerned. The board have no alternative but to say, "The fence is not according to law, and we must therefore declare your selection forfeited." The selector then appeals to the Land Court, before whom the same facts are adduced, and the Land Court, while recognising that the fence is a good fence as between the selector and his neighbour, is obliged to hold that it is not a fence within the strict meaning of the law, and the selection is forfeited because the fence is not in its proper place. The selector then applies to have the case postponed, promising to remove the fence, and put it on the other side of the road; but the Court says, "We cannot grant this application, as

the time when you should have fenced in the land has elapsed, and we have no alternative but to declare the selection forfeited. But we will make a strong recommendation to the Minister that he shall not forfeit, owing to a *bonâ fide* performance of the fencing condition." Why should we not, under such circumstances, leave the decision in the hands of the Minister?

Mr. COPELAND: The Minister would have the power in such a case as that!

Mr. BARBOUR: I think not. At any rate, no harm can be done by the omission of this part of the clause, as it would be quite complete without it. If you have a minister to deal with, you can ask for justice tempered with mercy; but if you appeal to a court, it must decide according to law, and in such a case as I have described the law says that the selection must be forfeited, notwithstanding the hardship of the case. The time may come when we may require to appeal to a minister in order that justice may be done to many hard-working and industrious selectors. I hope the Minister will agree to omit this sentence.

Mr. WALL: If there was any object sought to be attained by the last Land Act, it was finality in the decisions of the Land Court. This amendment, if agreed to, would place us in this position, that unless the Minister chose to comply with the recommendation of the board, there would be no finality whatever in the decisions of that body. There is nothing in this clause to compel the Minister to accept the recommendation of the board, and the matter may remain in abeyance to the end of time. If we are going to insert a clause of this kind, it will be absolutely necessary to bind the Minister by the recommendation of the land board. If that is the case, then let the finality rest with the land board, and do not let the case be referred to the Minister after the board has made its recommendation. If it is the intention that the Minister shall have no discretionary power, but shall only act on the recommendation of the board, and if that recommendation is to be carried out, let the recommendation of the board be final. But if we say that the board shall make a recommendation, and it shall be optional with the Minister whether he carries it out or not, we destroy that finality which was aimed at when the act of 1889 was passed. The hon. member for New England and the Secretary for Lands have referred to section 20 of the act of 1884. That section was framed in order that the Minister might be able to obtain additional evidence where forfeiture had taken place, and where representations were made that further evidence could be adduced. In order to obtain this further evidence, the Minister had power, under section 20, to refer any case of forfeiture to the board, in order that they might be able to arrive at a conclusion respecting the merits of that particular case. But the section was never intended to apply to a case where the difficulty was one of some technical error, such as that in the case that has given rise to the introduction of this bill. Here is a case in which the law distinctly sets forth, as interpreted by the Land Court, that certain persons have not complied with the conditions of purchase, and the mercy of the Minister has to be exercised in the interests of those who have taken possession of the land in good faith. The law has been administered for a number of years, and a number of these irregularities have occurred whereby, as the Minister pointed out the other evening, some thousands of cases were involved under this bill. There would be no necessity to refer these cases under section 20 for additional evidence; it is simply a question of the interpretation of the law. The land board decide that these persons are illegally in possession of their holdings. They have made recommendations, but they decided the case on a technical point, and would have no power to recommend that the Minister should set the law aside. But suppose they did make a recommendation, the Minister is not compelled to carry it out. If we are going to compel the Minister to be tied down by the recommendations of the land board, there will be no occasion for a case that has been referred to the board to come back to the Minister, but the recommendation of the board should be final. Although the land board or the Land Court, on appeal to them, may recommend that the reversal take place, if the Minister is of opinion that it should not take place, then the power of the board will be vetoed by the Minister refusing to carry out their recommendation.

It seems to me an absurdity that the case should come back to the Minister at all. If the Minister can only act on the recommendation of the board when the case comes back from them, let the recommendation of the board be final.

Mr. COPELAND: It will be under section 20!

Mr. WALL: Section 20 does not refer to recommendations, but to decisions. Any decision under section 20 would be final; but this is simply a recommendation in accordance with the court's interpretation of the law. It certainly would be final in a direction in which I take it the hon. member does not desire finality, because, if injustice occurred under that section by the court's interpretation of the law, that decision would be final. But the recommendation of the land board would have no finality till the Minister concurred in it. It is the actual decision that becomes final, not the recommendation. What are the circumstances of the case? A matter is referred to the land board, and they are compelled to come to a certain decision in accordance with the law; but they know that it will entail hardship on the parties concerned, and they make a recommendation to the Minister. He has only to hang up that decision for thirty days in order that the legal interpretation may become law, and not the recommendation of the board or court. I take it that that is not what the hon. member desires. If an injustice has been done the Minister has only to keep the board at defiance for thirty days and to say, "I will not carry out your recommendation or decision." What occurs then? This reversal that could take place on the recommendation of the board does not, through the obstinacy of the Minister, and hardship is entailed on those persons whose cases have been recommended for merciful consideration. If we are going to refer these cases to the board or court, let their recommendations be final, and let us make it compulsory on the part of the Minister to carry out the recommendations. But do not, on the one hand, place him in a position to set aside the recommendation of the board or court, or, on the other, deprive him of the right to exercise his discretion unless in accordance with the decision of the board. I trust the Committee will strike out those words or, if not, let the case be finally decided by the local land board, and let the recommendation of the board be the decision in the case; not have the decision hanging up and persons deprived the means of obtaining justice simply through the option of the Minister, and tied down to the legal decision of the court given not in accordance with their convictions, because they would feel inclined to make a recommendation for mercy, as they did in the case referred to. If tied down to the legal decision they are deprived of all rights to consideration. I say there should be no hardship whatever. The Minister has this power and, being the responsible Minister, he is always amenable to this House. In the matter of section 20, it was never intended to have any application of this kind. It was intended to deal with cases where representations were made to the Minister that additional evidence could be obtained, and the Minister, under section 20, sent the case to the local land board. Since the passing of the act of 1884, until I was the means of getting a case tested by the Supreme Court, the Minister refused to recognise the finality of that section. Cases could be sent back as fresh evidence was offered, and no finality was arrived at. But I have no hesitation in saying that the section was never framed to meet cases such as we desire to provide for by this bill—cases in which there was no question whatever of legality, but where the matter was for the consideration of the Minister and the merciful exercise of his power. These are the cases to which the bill applies. It should be compulsory on the part of the Minister to abide by the recommendation of the board, or we should give him power to veto the recommendation of the board and arrive at a decision himself.

Mr. TRAILL: It appears to me that the arguments of the last two speakers being mutually destructive, tend to show that the clause is about right as it stands. The hon. member for The Murray, Mr. Barbour, argued that the Minister had not sufficient discretionary power; but the hon. member for Mudgee argues that the Minister should not have any discretionary power, that it should be left entirely to the board. If we balance the arguments of one hon. member against those of the other, it will be seen that there is about sufficient discretionary power left to the Minister, and not to

much. The hon. member for The Murray argued that the Minister could not, without the recommendation of the board, reverse a forfeiture; but as a matter of fact, he can on the report of the board. He is not bound to the strict legality of the matter at all. The board might report that, technically speaking, the reversal of forfeiture could not properly take place, but that the case was one of extreme hardship. Whilst reporting that there had been an illegality justifying the forfeiture, they might recommend a reversal of that forfeiture. The power is given in the 3rd clause. The hon. member for The Murray thinks that the Minister can do the very thing which the hon. member for Mudgee thinks he might not be able to do. That discretionary power is given to the Minister, and he is not obliged to follow the recommendation of the board as regards taking any action. He can overlook the technical irregularity, and do substantial justice.

Mr. CRICK: He cannot act in opposition to the recommendation of the board!

Mr. TRAILL: He cannot; and it would be most undesirable that he should.

Mr. CRICK: He has done so hundreds of times during the last six months!

Mr. TRAILL: I think it most undesirable that he should. The great object secured here is the absolute publicity given to the proceedings in the very district in which the occurrences have taken place that led up to the forfeiture. The light of day is shed on the whole transaction before the board, and the grounds of any decision which the Minister may adopt, with the cognisance of the board, are well known to every person concerned. It appears to me that the new clause meets the case exceedingly well. I am very glad indeed to find the Minister standing to his guns on this occasion, especially as, when the bill was introduced, he did not seem to quite appreciate the necessity for inserting a clause of this kind, although it was pressed on his attention.

Mr. LYNE: I hope the Minister will see his way clear to accept the amendment. When the bill of 1884, and the bill of 1889, were passing through the House, I think we went almost to the opposite extreme; we took away all the power we could from the Minister. On many occasions, as I have experienced myself, from want of a discretionary power in the Minister, very considerable delay and very great injury have occurred to many small holders. The constitution of the land boards is, I admit, as good as it is possible to be under existing circumstances; but many land boards are not constituted as the people of the country desire. I would very much rather give a discretionary power to the Minister after due investigation, as we can get at the Minister through this House if any great injustice is done.

Mr. GARRARD: After it is done!

Mr. LYNE: I know of very few cases—in fact, I may say I know of no cases—where the Minister has given a decision which is a great hardship, after examination and report by the board. It must be a very extreme case indeed when he acts in opposition to the land board or Land Court. In fact, I think the Minister would have no justification whatever for so doing unless it was a case which he conceived was not properly adjudicated upon by the land board. I think, therefore, we may fairly omit the last three lines, and let the Minister have some discretionary power. Why is it that in every session we are called upon to pass a validating bill? It is for the want of some discretionary power being left in his hands. Although it is right that a bill should be brought in, still very great hardship exists in cases where selectors have to remain perhaps one or two years out of their just rights until it is passed. We should keep a pretty tight hold of the Minister as long as we can. It is better to give him some discretionary power in these matters than to leave them entirely in the hands of the land boards. As far as the land boards are concerned, some cases have been brought under my notice—and I know the hon. member for The Gwydir can support my statement—where fences have been required to be put up between conditional leases belonging to two members of a family simply to carry out a hard and fast rule, which the Minister or the land board has no power to override. It has been well understood in some cases that almost a temporary fence shall be put up to conform with the law, and it is put up for the time-being with the deliberate intention of pulling it down as soon as the law is complied with. I happen to know that the hon. member for The

Gwydir had a case of that kind. In the case of some selections a natural creek or river forms a sufficient frontage as far as the selector is concerned; but he is compelled to put up a fence, and waste his money in that way because no discretionary power is placed in the Minister's hands. In all these cases it would be very much better to leave a discretionary power in his hands; therefore I hope sincerely he will be able to accept the amendment, from which I do not think any harm can accrue.

Mr. HASSALL: I would point out that the circumstances of the administration of the land law are very different from what they were a few years ago. I well remember that when we were proposing to establish land boards and a land court, there was a very great outcry on the part of people wishing to settle on the lands that it was almost impossible to get justice if a man had nothing in his pocket to back him up. It has been truly remarked that we went from one extreme to the other in taking power out of the Minister's hands and placing almost an irresponsible power in the hands of land boards. I should like the land boards and the Land Court to know that there is a power even superior to them; that they are responsible to the Minister, who is responsible to Parliament and to the people. I think the safeguards provided here are quite sufficient to protect any man against injustice. It provides that the Minister, before absolutely reversing a forfeiture, shall refer back to the land board for inquiry, and then it goes on to say:

> In any such case no absolute reversal of such forfeiture shall take place except on the recommendation of such board or court.

As has been truly said, the board or court are a supreme power in the land, and if their decision is contrary to justice, although it may be right according to law, we cannot bring them to book, as they have carried out the letter of the law. While we have a minister responsible for the administration of the department, surely we can trust him to act fairly and honestly by the people of the country.

Mr. A. HUTCHISON: What about the next minister?

Mr. HASSALL: When the hon. member becomes minister we shall have no difficulty whatever. I do not look upon every man in this country as a rogue—I prefer to take them the other way. I say that if the Minister gives a decision which is contrary to justice this Parliament can compel him to lay the papers on the table in order that there may be the fullest discussion. I guarantee that if the Minister had the temerity to do a wrong thing once he would not have the temerity to do a wrong thing twice.

Mr. GARRARD: That is what they used to say seven or eight years ago!

Mr. HASSALL: They used to say a great many things; but since those days a land board and court have been appointed, where the whole of the facts are brought out, and where recommendations or decisions are made accordingly. I guarantee that if a land board or court make a strong recommendation to a minister that a reversal should not take place, any minister would think twice before giving effect to that reversal. The hon. member for The Hume says I can throw a little light upon the question of fencing. I was compelled to erect a fence 3 miles in length, which was absolutely useless to me, and, in fact, was a detriment to my property. What did I do? I put up a wire fence with only three wires in it. I had to put the fence along the dividing-line between two conditional leases, cutting my paddock in two. Fortunately as I was making a water supply on the land I was able to run it in on the boundary line of the two leases, leaving a gateway open to the water so that my stock could get to water, as they had been accustomed to do. Had I been compelled to carry the fence right along I should have been in this position: that the fence not running right down to the water, the sheep and lambs would have gone, some on one side and some on the other. The consequence would have been that the lambs would have been separated from their mothers, and I should have lost very heavily. The board, however, allowed me to put up a fence of three wires, sufficient to prevent a horse or beast going backwards or forwards, but not sufficient, thank God, to prevent a sheep crawling underneath. I erected that fence on the boundary line of two conditional leases taken up by two members of my own family. Had the Minister had the discretionary power of saying it was not necessary to fence the

land—and it was not necessary, and it did the land more harm than good—and had he had the discretionary power of saying that my conditional lease should not be forfeited even if I did not erect a fence, no injustice would have been done. My case is only one of hundreds which are occurring day after day, week after week, and year after year. I trust the Minister will accept the amendment of the hon. member for West Macquarie, and will eliminate the concluding words of the new sub-clause introduced by the Upper House. Those words can do no good, inasmuch as they only leave matters in the position in which they are at present. Surely if an injustice is complained of we should try to remedy it. The very fact of the bill being introduced, and the existence of cases which have been illustrated to-night, shows that some alteration of the law is necessary. Surely, if we can place a man in the responsible position of a minister of the Crown, we can trust him to administer the law faithfully and honestly.

Mr. BRUNKER: I should like to explain to the hon. member for The Gwydir that the power which he thinks would be taken away from the Minister, is still conceded in clause 6, which states:

> In any case in which a purchase, lease, or license has or shall become liable to forfeiture by reason of the non-fulfilment of any condition annexed by law to such purchase, lease, or license, but in which the Minister shall be satisfied that such non-fulfilment has been caused by accident, error, mistake, inadvertence, or other innocent cause, and that such forfeiture ought therefore to be waived, it shall be lawful for the Minister to declare that such forfeiture is waived.

That gives the Minister power to waive forfeiture right up to the time when the certificate of conformity can be granted. Cases similar to that to which the hon. member has referred are very numerous. I have had several cases before me during the last three or four months, and I quoted several of them when the bill was introduced, in which conditional purchasers, not from any fault of their own, but from the character of the country, had been prevented from carrying out the conditions of fencing so as to comply with the technical conditions of the law. There are cases, of course, in which the conditional purchaser may, without due knowledge of the circumstances, fence across a road. We have many cases of that kind, and in all of these cases I have waived forfeiture, and it is, to a large extent, for the purpose of validating my action that the bill is introduced. The hon. member for The Gwydir will see that under the 6th clause power is still given to act in the same way as I have done in the past. Therefore no injustice can result.

Mr. CRICK: That is where the conditional purchase has not been forfeited. This applies to cases where it has been forfeited, and the Minister sees the error of his decision. He must follow out the recommendation of the board!

Mr. BRUNKER: The hon. member, having a great deal to do with these cases, will understand that even now the board declare forfeiture, but they make a recommendation to the Minister that he will give these cases, which are decided on technical points, favourable consideration. Having this knowledge, and dealing with cases in a technical manner, and also having this much more liberal provision under which they can deal with these cases, will not the boards exercise the power which they now ask the Minister to exercise on their recommendation?

Mr. CHANTER: With regard to the amendment of the hon. member for West Macquarie, and the clause alluded to by the Minister, I cannot find the application. In one case it is absolute, and in the other it may be possible. For instance, clause 6 refers to leases which may be liable to forfeiture. The amendment of the hon. member for West Macquarie deals with cases in which forfeiture has actually taken place; and where that forfeiture has taken place, it is in the interests of the country, and of good government, that the Minister should have some discretionary power. How many cases have come before the hon. gentleman himself since he has been Secretary for Lands, in which he has found that the technicalities of the law, so ably described by the hon. member for New England, have been of so gross a character that he has had to step in to save individuals from ruin? I might cite a case which happened a few days ago, showing the necessity of having a discretionary power in the hands of the Minister. A poor unfortunate selector had selected a portion of land for twelve years, and his money has been lying in the Treasury ever since, simply because the Minis-

ter had not the power to do a certain thing. He has lost his land, and he is ruined for ever. Why should not the Minister have discretionary power? Why should he not have it in a case of this kind, when he knows that the technicalities of the law are of so gross a character that they simply mean ruin to an individual?

Mr. BRUNKER: This will not cover a case of that kind!

Mr. CHANTER: I beg the hon. member's pardon. I differ very materially from the hon. member as to the value of land boards.

Mr. BRUNKER: That is not the point!

Mr. CHANTER: Of my own knowledge a number of members of the local land boards are men who have no sympathies whatever with *bonâ fide* selectors, and yet the Minister, by this clause, would bind his own hands, because unless the land board recommend the Minister to waive or reverse a forfeiture, no matter how much the Minister may think an injustice is done to the selector, he cannot possibly waive or reverse it. The 6th clause only applies to cases where forfeiture is liable to ensue; but the clause we are discussing deals with absolute forfeiture. How many cases does the Minister himself recollect in which he has, under certain conditions, actually reversed actions taken some time prior to the passing of the Land Act Amendment Act of 1889? He knows, as a matter of fact, and I and other hon. members know, of scores of cases which have been brought before him of real hardship, cases of injustice and positive ruin to the individuals concerned, because of the non-carrying out of some paltry improvements. Surely we have not reached such a point that we cannot find in the breast of a gentleman occupying the position of Secretary for Lands sufficient honesty of purpose, but must tie his hands, and dare not allow him to deal with the administration of the laws of the country. How much better than the Secretary for Lands are the gentlemen who constitute the local land boards? Surely if we can trust them we can trust the Minister. If he does wrong he is responsible to the House, which represents the people. We cannot call members either of the land board or of the Land Court here; but if the Minister, after taking into consideration any matter that has been referred to the land board, does wrong we can punish him. We cannot get at either the land boards or the Land Court, and it is not right that we should do so; and surely in the interest of *bonâ fide* selection it is necessary that the Minister should have the power reserved to himself, and where he knows that absolute injustice is about to be done to some unfortunate individual he should take the necessary steps to prevent it from being done. That is the position. If any hon. member will carefully read the amendment, what does it mean? With the exception of the words that the hon. member for West Macquarie proposes to strike out, the House has previously dealt with the matter in the 6th clause, exactly as the Council now sends it down. What the Minister provided in the bill was that he should not take action without the assistance of the board in collecting evidence to enable him to determine a given point; but the amendment made by the Council goes further, and not only provides that that evidence shall be taken, but also binds the Minister not to act except on the recommendation of the board. I venture to say that if this is done, in many parts of the colony, at least, a great many more individuals will have very much cause to regret the passing of the measure. If the amendment proposed by the hon. member for West Macquarie is accepted all the power which they ought to have will be left in the hands of the land boards and the Land Court; but the power of the Minister to administer his department in the interest of the people should be left in his hands, subject at all times to the control of the representatives of the people.

Mr. CHAPMAN: I rise to support the amendment of the hon. member for West Macquarie. I think it is very desirable that this power should be vested in the Minister instead of in the land board. I understand that that is what the bill is for—to give the Minister power in extreme cases to carry out the spirit rather than the letter of the law. I know from experience how some of the land boards are constituted; and we know that any board or court, having once given a decision, and however much you refer the matter back to them, will adhere to it, no matter if they are in the wrong. I think

that if any discretionary power at all is given, it is better to give it to the Minister, who is responsible to the House, than to the land boards, who, in many instances, would rather side with wealthy lessees than with struggling selectors. I know instances where the Minister has exercised this power on the grounds of mercy, and I think that the exercise of power on the ground of mercy should be by a minister responsible to the House. I cannot see what good these words are. It is no use arguing that they will not do any harm. If they will not do any good, and there is the slightest possibility of their doing harm, they should be struck out. In extreme cases we should always have power vested in some head, and to whom can we look better than to the Minister who is responsible to Parliament? Would it not be better to leave the power in his hands, instead of in the hands of the land board? I cannot see what is the use of referring back to the board at all. What is the use of giving to the Minister power to consider if he has to carry out whatever the board think is right or just?

Mr. ROSE: I have very great pleasure in supporting the amendment moved by the hon. member for West Macquarie. I look at it in this way: We are dealing with one of those great principles which are inseparably bound up with democracy. We have 160,000,000 acres of land belonging to the people, and which can be operated upon by the Minister in connection with land boards and the Land Court. With that vast interest it seems to me entirely undemocratic that we should have any head outside the House and irresponsible to Parliament. It may be argued that we might have a corrupt minister. But the force of the argument would tell equally when applied to land boards. It may be said that we might have a corrupt land board, or a corrupt land court. One of the main contentions that have been urged, and which I think is unanswerable, is that, do what we will, we cannot simplify our land laws—that every act becomes more complex—and, that being the case, we have to deal with the technical wording and the spirit of the act. I take it for granted that if we deal entirely with the technical wording of the act, in innumerable places we shall have all sorts of false jurisdiction; and because I believe that the Minister should be the head, and that we should have the responsible head in the House—somebody that we can attack if he does wrong—I think it is unanswerable that the amendment should be carried.

Mr. MILLER: I look upon the sentence which the hon. member for West Macquarie proposes to omit as being a direct slap in the face for the present Minister, and for all future secretaries for lands. The last sentence seems to me mere surplusage, because the former part of sub-clause v states that all these matters shall be referred to the land board, or the Land Court, and that they shall recommend after taking evidence thereon. If we provide that once, I fail to see the necessity for repeating it. The Minister undoubtedly will decide on the evidence taken by the Land Court, or the land board. I think the clause will be more in accordance with democratic principles, as the hon. member for Goulburn has said, if the amendment be carried, than it will be if we leave the words in. My experience of land boards has been somewhat similar to that of the hon. member for Braidwood. I have not great confidence in land boards. I have far greater confidence in secretaries for lands. As the hon. member for Goulburn has said, if the Minister can be corrupt, so also can land boards.

Mr. HASSALL: So can Parliament!

Mr. MILLER: Sometimes—sometimes not. I know that in many cases where matters have been referred back to the land boards, the decisions given at the former hearings have been strictly adhered to, and it is not likely that those gentlemen will change their opinions, for they will have the same evidence over again, and they will abide by the decisions already given by them. There is another phase of the question. In the Legislative Council, where this amendment has been made, the sympathies of the members are not always with the selectors, but rather against them. It is only in cases of extreme hardship that the Minister will exercise the discretion proposed to be given by expunging this sentence. It will be in the interests of selectors generally to agree to the amendment. Our laws, and especially our land laws, are so complicated that very few indeed of the ablest lawyers in the

country can understand them. It is, therefore, proper that we should give the Minister in cases of extreme complication and distress absolute power over any land board or land court. Some hon. member referred to the Minister of Justice not being allowed to overrule the District Court and Supreme Court in their decisions. Now the laws affecting conditional purchases and lessees are totally different to all other laws.

Mr. CHANTER: It is a contract of sale!

Mr. MILLER: Undoubtedly it is; and sometimes the circumstances are such that we cannot arrive at a just decision by following the technicalities of the law. I am sorry to see that there are so few in the House at the present time who seem to take any interest in this question. I have no doubt that seeing the Minister has accepted the decision of the Council, we shall find the Chamber full of members when the division is taken, who will vote with the Government, although not one-third of them will know what they are voting for. I hope that the Minister, in the interest of selectors and conditional purchasers, will accept the amendment of the hon. member for West Macquarie.

Mr. WILLIS: I would also urge the Minister to accept the amendment of the hon. member for West Macquarie. It can do no harm, and possibly it may do a great deal of good, if this small discretionary power is allowed to remain in the hands of the Minister. I know from experience in my own constituency that the slight discretionary power which is left in the hands of the present Minister has been a great boon to many selectors. He has never failed to use his power on the side of mercy towards those who have selected in the west. The Minister should have a slight discretionary power over the land boards. We have land boards and land boards. Some members of land boards are a credit to the country, while there are others, dictatorial retired squatters, who ought to be kicked out of the service. There is the case of an individual named Park, who was chairman of the land board at Hay. He acted in such an arbitrary way that the associations in all parts of the country demanded of the Premier, who was then Acting Secretary for Lands, that this man's decisions should be considered in an impartial way. He stood on his dignity and said, "I administer the law, and the Minister has no right to interfere with my decisions." Telegrams were sent to the Premier by myself and two of the associations, and the result was that this dictatorial hanger-on and sponger to the Lands Department was brought to book; a commission was appointed, and if not dismissed, he was at least removed. Some of his decisions were against the selector in every particular. He forfeited one man's selection because he did not take his meals on his selection. Two brothers had adjoining selections; one was married and the other single. The latter lived in a tent on his own selection, but he naturally took his meals with his brother, whose wife cooked and washed for both. This chairman forfeited the selection of the unmarried brother. If these words are eliminated as proposed the Minister will have power to deal with such a case. I know another case which occurred during the late flood at Bourke. A small area of land was proclaimed as a flood refuge on a homestead lease, and it was taken out of the lease. Before the lessee could get his certificate he was obliged to put up 4 miles of fencing in order to fence off this flood refuge, which was doing him more harm than good. After his lease had passed the land board, like a sensible man, he pulled down the fence. These are the cases in which we want the Minister to have a discretionary power. Something has been said about corrupt ministers. I do not think that in our present advanced stage of democracy we are likely to allow a corrupt minister to remain very long in office. The old state of things amounted to this: "You scratch my back, and I will scratch yours." We found this House scratching the back of another House; but the old order of things has been cast to the winds, and a new state of things has arisen in this House and in the country, and I am certain that if any case tainted with corruption were brought before the House, the Minister concerned would be brought up to the bull-ring. In the present state of affairs no minister dare act in a corrupt way, and the proposal to give him discretionary power after a case has been dealt with by the land board and by the Land Court will be found equitable in the interests of settlement and of selectors. I,

for one, shall vote for the amendment. It is to be regretted that our land acts are so defective as to require such frequent amendment; but this bill is absolutely necessary, and I should like to see it passed to-night with a few desirable amendments.

Mr. EDDEN: I quite agree with some of the remarks of the hon. member for Monaro (Mr. Miller). There can be no doubt that if a division takes place upon this amendment a number of hon. members will enter the Chamber not knowing what they are voting upon. I shall vote against the amendment, and I will state why I intend to do so. I remember that when this bill was passed by this House it was strongly opposed by the hon. member for New England (Mr. Copeland). I thought the hon. member offered undue opposition to the bill, and it caused me to watch very carefully the passage of the measure through the Legislative Council. I heard or read a great portion of the debates in that Chamber, and I have come to the conclusion that the hon. member for New England was right and that we were wrong in hurrying through the House a bill which placed so much power in the hands of the Minister. I can see no necessity for the striking out of the words the hon. member for West Macquarie would omit. While I am in the House I shall be actuated by a desire to do unto others as I would they should do unto me. If I had a case I would rather submit it to three or four men than place it in the hands of one individual. The hon. member for Argyle (Mr. Rose) talked of democracy; but if it be democratic to give to one man the sole power of saying what shall and what shall not be done, I am bound to say that I do not understand what democracy is. I think the amendment should be negatived, and I will not further occupy the time of the Committee because I do not profess to be an exponent of land law. After carefully reading the debates which have taken place in the Legislative Council, I have come to the conclusion that to carry the bill as originally introduced, would, as the hon. member for New England has pointed out, be to place too much power in the hands of the Minister.

Mr. BRUNKER: I am sorry to have to detain the Committee; but I think I may fairly claim to take as much interest in *bonâ fide* settlement in this country as do hon. members who are supporting the amendment which has been moved by the hon. member for West Macquarie. I have always endeavoured since I have occupied the position of Secretary for Lands to conserve the interests of the small selectors, believing, as I do, that they are the bone and sinew of this country. I yield to no man inside or outside of this House in my desire to effect *bonâ fide* settlement. Holding these views, then, it is not at all probable that I should yield to any proposal that would deprive me of privileges which I conceive that I hold in the interests of those whose cause I so strongly advocate. Hon. members are inclined to deal with this amendment without any regard for the provisions made in the acts of 1884 and 1889. None of the sections in those acts affecting the question with which we are now dealing have been repealed. The first question we have to ask ourselves is: What are the duties and powers of the boards under the act of 1884? We find that under section 13 of that act the boards have full power and authority to hear cases, to examine witnesses, and to report to the Minister. The amendment which is objected to simply says that the Minister shall not reverse without a recommendation. What does that mean? The recommendation is upon a statement of facts; and my contention is, that although this recommendation will be made, the Minister will still retain his powers under the act of 1884—that is to say, he will be in a position to deal with cases in the same manner in which he can deal with them now subject to the recommendation. If hon. members turn to the 39th section of the act of 1884, they will discover what the Minister may do. The section says:

> If the local land board or the Land Court shall report to the Minister that after due inquiry ——

This due inquiry is a point which has been strongly contended for, because whenever the land question has been before the House we have been told again and again that cases should not be dealt with through backstair influence—that the Minister should not sit in his room and deal with cases privately, but that they should be dealt with openly and aboveboard as they

are dealt with by the Land Court and land boards under the acts of 1884 and 1889.

Mr. CRICK: That can be done still. We do not propose to draw the curtain over anything!

Mr. BRUNKER: The section continues:

after due inquiry held by such board the prescribed conditions of residence or fencing have not in the opinion of such board been or are not being duly fulfilled by any conditional purchaser or lessee or his representatives it shall be lawful for such Minister to declare the conditional purchase or lease to be forfeited.

The Minister acts upon the recommendation and report of the board, the board deriving their authority under the section which I have quoted. I say, then, that the Minister will still have the right he has now, and that the board will still have the right to make recommendations. This clause certainly does take the right from the Minister.

Mr. CRICK: The hon. member has just now put the strongest argument into my hands which the Committee need ask for. The sections to which the hon. member referred provide for cases anterior to forfeiture. We are dealing with something subsequent to forfeiture. That is the difference. I quite agree with a great deal of what was said by the hon. member for Northumberland (Mr. Edden), who has told us that he knows nothing about the matter. I quite agree with him that a number of members will stroll into the Chamber directly from the domino tables and the chess tables, and will vote upon the question just as they see ministers voting, their votes being a disgrace to themselves, as their presence is no credit to Parliament.

The CHAIRMAN: The hon. member is now using language he has no right to use. He is referring to the action certain hon. members will take upon a division, and his language is disrespectful to members of this Parliament.

Mr. CRICK: I will content myself with saying that their action will not be creditable to them. No power this Parliament has, or will ever have, will make me say that it would be creditable on the part of thirty or forty hon. members to suddenly enter this Chamber, in which they have not been seen since the refreshment hour—members of the party which, by the way, entered this House to be working bullocks—and to vote like so many automata.

An HON. MEMBER: The greater proportion of our party are here!

Mr. CRICK: Since the hon. member is here, my remarks cannot apply to him. The hon. member for Northumberland, Mr. Edden, will pardon me when I tell him, if he has no stronger ground for voting against my amendment than the experience he has gained upon this complicated question by listening to debates in another place, and by reading the reports of those debates in *Hansard*, he must have formed a very hasty conclusion upon one of the most intricate questions that has ever appeared in the practical politics of this country. Hon. members who have been here for a great many years, and who have had the advantage of some practical experience in these matters, find it very difficult to come to a determination as to the meaning of many sections of our land legislation. A man wants not only practical experience, but also considerable technical education, in order to follow this most intricate measure. When I tell the hon. member, as I have told the Committee, that the bill has been rendered necessary by technical action on my part, I may claim to have some practical knowledge of the subject before the Committee. I stated at the beginning that any section of the law as it stands must be absolutely foreign to the whole question which I put before the Committee. Power has never been given to the Minister in our land legislation to interfere with a forfeiture that has been lawfully made. That is the point which I took, and which renders the bill necessary. What, then, was the necessity for the Minister to turn to sections 20 and 39 of the Lands Act of 1884? And I may express my surprise at the remarks of my leading opponent, an ex-minister, who says that the Minister has this power in section 20 of that act. If the power is there, why should Parliament go to the trouble of re-enacting the provision?

Mr. COPELAND: With regard to forfeiture!

Mr. CRICK: There is nothing in the act of 1884 that could be construed to mean anything like it. I suppose the hon. member must oppose my amendment because I opposed him when the bill was here before. An hon. member said, that

when a case has been before a land board, and has been decided by them, they are not likely to alter that decision. Some hon. members may pooh-pooh that; but what are the actual facts? A matter was referred back to a local land board three times by the Land Court, who asked them, and, in effect, told them to come to a different decision, but the land board refused to do so. I was engaged on that case, but so disgusted was I the last time it was referred back, that I retired from it altogether. The Land Court had only power to refer the matter back to the land board, and so it kept see-sawing backwards and forwards. The amount in dispute is something like £12 10s., while the legal costs up to the present time come to over 100 guineas. If the matter were allowed to go to the Minister he could say, "I understand the merits of the case. I have read the evidence given before the land board and the Land Court, and, as the responsible Minister, I will decide it on the sworn evidence, and be amenable to Parliament for my decision." The hon. gentleman says that this power is given to him by clause 6 of the bill; but, if so, that clause repeals what he wishes to enact here, and why should stultify we ourselves by enacting something in sub-clause v of clause 3, and then repealing it by clause 6? If the Supreme Court could possibly give any meaning to sub-clause v, without holding that it was impliedly repealed by clause 6, they would do so; but, if it is directly antagonistic to clause 6, that clause will override it, and what then is the use of enacting it? The other day a case came before the Land Court where a man, who had taken up a selection and lived on it for some years, spending not only his own labour, but also that of his wife and family upon it, for some crime, or through some misfortune, was tried and sent to gaol for, I think, two years. Hon. members will know the facts of the case, because it is only recent. The land board found, as a matter of law, that the conditions of the act had not been complied with, and they had to recommend the forfeiture of the selection because of the non-residence of the selector, who was serving her Majesty in another capacity. This, of course, meant the ruin of the wife and children. The case was carried to the Land Court, who held that they had no power but to decide, in accordance with the provisions of the law, that the condition of residence had not been complied with. Well, suppose that case had come before the Minister, who, acting on the recommendation of the land board, without knowing that the man was in gaol, forfeited the selection, and after the forfeiture ascertained the real facts of the case, without considering the man at all, he might, in order to benefit his wife and family who had been toiling on the land to improve it, desire to reverse the forfeiture. Under the clause he would have to send the case for report to the local land board, but if the local land board was like the one to which I have just referred, and refused to reverse the decision, does the Minister or the hon. member for New England say that the Minister could then cancel the forfeiture?

Mr. COPELAND: The Minister would not be forced to forfeit!

Mr. CRICK: I am putting a case in which forfeiture has taken place. Half the hardships of these cases are brought to light only after forfeiture has taken place. It is not the most intelligent and best educated class of men who go on to the land of the country. These men send in their rent in the first quarter of every year, and they rely upon the land agent to post them up in the requirements of the act, and it is only after injustice has been done that the Minister finds out the real nature of the case. If the Minister sent back such a case to the local land board, and they refused to reverse their decision, he could not cancel the forfeiture, though no one, perhaps, would blame him for deciding in opposition to the decision of the board. In the Pirie case we selected the land in spite of the Lands Department. The land agent said that he had instructions from the Minister that the land was not open for selection, and he refused to take our application, but we forced the matter and got the land in spite of the Lands Department. The Lands Department cannot override the laws of the colony, and because it cannot override the laws of the colony, I claim that this power should be vested in the Minister. Why should the Minister refuse this power? Not a single hon. member has given an intelligent reason for opposing my amendment. The hon. member for South Sydney, Mr. Traill, said

something about it, but we know how much light he threw upon it, and how much he knows about the matter, because he said that the hon. member for Mudgee, Mr. Wall, was opposing the amendment, when he was one of the warmest supporters of it. The two cases to which I refer show the necessity of this power on the part of the Minister. One hon. member said — I think it was the hon. member for New England—that the selector could appeal from the land board to the Land Court. Of course the selector is a man with a tremendous banking account, always looking round to see if he can get an appeal—better to him than a good crop of wheat, or a heavy fleece of wool. Under this section, what can be done? What the Minister has done already, can rightly and properly be done. He can say to the selector, or to the homestead lessee, or whoever the aggrieved party may be, "If you have any evidence to lay before me, if you have not the means to engage legal talent to go into the Land Court or Supreme Court to appeal, get your evidence on affidavit, get it sworn in a proper manner, send it to me, and I will refer it to the officers of the department"—and we have enough officers, God knows—"and ask the tribunals to report upon it." That is why I contend they should be able to approach the Minister with proper affidavits; and then let us make use of the machinery in order that the truth of these affidavits may be verified or otherwise. I cannot understand why the amendment is being opposed. Nobody can accuse the members who spoke in support of my amendment, any more than they can accuse me, of having any designs on the bill. I suppose the only one who might be said to have any designs on the bill is the hon. member who got up and opposed my amendment, and who will always have his own way if he can. That hon. gentleman, and the hon. member for South Sydney, Mr. Traill, were the two members who, when the bill was first introduced, tried to put it under the table, and those who look with suspicion must look at those hon. gentlemen, and not at members who, like myself, have endeavoured to assist in passing the bill. I again implore the Committee to accept the amendment, and not take away from the Minister a power that cannot be exercised harmfully, but which can very often be exercised in the best interests of a large and well-deserving section of the community.

Mr. COPELAND: I think the hon. member himself is the very best evidence that the Committee could have in favour of carrying the bill as it is. Just let hon. members imagine that the hon. gentleman who has just sat down had a case in hand. If one of the hon. member's constituents had his land forfeited, imagine what a nice dance the hon. member would lead the minister of the day. Fancy the merry time the Minister would have if he did not give way to the arguments of the hon. member and reverse the forfeiture!

Mr. CRICK: Ask the Minister if he has had to complain of me since I have been in Parliament!

Mr. COPELAND: I do not know whether the Minister has anything to complain of the hon. member, and I am not prepared to say the hon. member has any designs on this bill; but I say he may have designs on the Minister. I do not say he has; but there is a possibility. There are a number of members who represent selectors' constituencies, and many of their supporters are liable to come under the operation of this bill. I ask, is it fair to the member, still less to the Minister, that the latter should be liable to be earwigged, bounced, and bullied, even if he does not comply with the request of a member of Parliament for the reversal of a forfeiture? There are two sides to this question. It is very well for hon. members to get up and talk about the poor man; but there may be two separate interests involved, and, in inducing a minister to reverse a forfeiture, it may be that you are inducing the Minister to take the land away from somebody else already in possession. I submit that there is no necessity whatever for the amendment. This question mainly refers to the reversal of a forfeiture. Although it is quite right for us to provide for exceptional cases—perhaps one in a hundred or one in a thousand —where a forfeiture is made that ought not to have been made, yet, on the other hand, it is only right to assume that where you find a forfeiture made there were good and valid reasons for that forfeiture. One minister may have made the forfeiture; another minister may be pressed by an hon. member or an influential land agent

to reverse his predecessor's decision, and it is quite possible that the Minister may take a different view from that of his predecessor. There is this difficulty in connection with our land legislation : that ministers are not permanent, like judges. We have had as many as three changes of government in less than a year, and every one of the three land ministers might take a different view of any clause of the act, and give a different decision. In the case of the land boards and the Land Court, the members of those bodies are permanently appointed, and their decisions are not liable to political influence. They are not liable to be badgered by members of Parliament, and they are not liable to change their opinion by reason of a fresh lot of men coming into office, as a minister is. It is safer in the interests both of the first selector and the second selector, that the Minister should carry out the recommendations of the land board or the Land Court, than that he should send the case to the land board, let them take evidence and make their report, and then, sitting in his office, never having seen a witness, nor heard a word of the evidence, take upon himself to reverse the decision of the land board or Land Court. Of course, in this case, the land board or the Land Court does not absolutely give a decision. It simply holds an inquiry and makes a recommendation to the Minister. It is in the position of a board of advice to the Minister. Now, what is the good of the Minister being placed in this advantageous position that he can refer a case to the board of advice consisting of gentlemen perfectly disinterested, having no political axes to grind, who do not care a dump whether the land is given to Smith or to Brown—I say what is the good of the Minister being in this advantageous position if he does not adopt the recommendations of such a disinterested and capable body? In 999 cases out of 1,000, the Land Court having had all the witnesses before it, and having conducted a local inquiry, is more likely to be right than the Minister sitting in his office, and especially if that Minister happened to be ear-wigged by an influential member of Parliament, perhaps the night before an important division took place.

Mr. CRICK : What do we want the Minister for at all?

Mr. COPELAND : We want the Minister to administer the law just the same as we want the Minister of Justice to administer the law ; but we do not want the Minister of Justice to be a judge. The Secretary for Mines does not sit in a court of mines, nor does any other minister sit in any judicial court. The very principle that we fought for in the act of 1884 will be undermined if the amendment of the hon. member is carried. I want to see our land laws administered in a manner absolutely free from political control or influence. I trust that the Committee will keep the clause as it is.

Mr. BARBOUR : The clause is almost exactly as the hon. member for New England, Mr. Copeland, wants it to be, except in the last paragraph. The 5th sub-clause says :

> In any case where a forfeiture has been or may hereafter be duly notified or declared for any cause other than the non-payment of money the Minister shall, before absolutely reversing such forfeiture, refer to the local land board for inquiry and report as to any fact or circumstance in virtue of which he proposes to make such absolute reversal as aforesaid. And such board, or the Land Court, upon an appeal or reference shall inquire into such fact or circumstance and make a report and recommendation thereon to the Minister.

That is what the hon. member has been contending for. The part of the sub-clause which we wish to have omitted does not refer to the former part at all. It is this :

> And in any such case no absolute reversal of such forfeiture shall take place except on the recommendation of such board or court.

That makes it imperative that the matter shall be dealt with in that way, whereas we want it left open. The Minister has the benefit of the recommendation of the board ; he acts upon the recommendation if it is correct ; if it is not, he acts on his own judgment. All the arguments of the hon. member have been in favour of what the clause actually provides. We do not want the clause altered in that respect at all. We only want to have the last part of the sub-clause omitted. We want a discretionary power to be left in the hands of the Minister, and plenty of reasons have been given why it should be so. We say that the Minister should exercise mercy. The land board and the Land Court always decide in accordance with the law, but hard cases often arise. A man may lose his land through unknowingly putting his

fence on the wrong side of a road. Two selectors may agree to erect a fence in a certain position, and having done what is not in accordance with the law, they may be in danger of losing their land, although they are *bonâ fide* selectors, who desire to make homes on the soil. It would be wrong to forfeit those men's land; but, according to the strict letter of the law, it would have to be forfeited. We want to get rid of the possibility of such men being ruined. I ask the Minister to agree to the amendment, as the sub-clause will be as well without the last sentence as with it.

Mr. BARNES: I cannot see what objection there is to leave out the words to which exception has been taken. We have land boards throughout the country who will take evidence in the cases referred to them; but where the Minister has obtained further evidence in regard to a forfeiture, he may find it advisable to reverse that forfeiture. I do not think we can do better than adopt the amendment, thus giving power to the Minister in hard cases to act according to his own judgment, and do that which is best for the parties.

Mr. JONES: I intend to support the amendment. I know a case in which a poor man, after struggling for a number of years to get together a few pounds, took up a selection, but lost it through ignorance of the law, and there was no chance of his getting it back, through the Minister not having any discretionary power. The land board adhered strictly to the law, and when the matter came before the Minister he agreed with the board, although it was proved by affidavits that he was a *bonâ fide* selector. Notwithstanding that his selection was forfeited; he lost his little home, and lost all the money that he had put into the selection. The land was forfeited on the recommendation of the land board, and the land board recommended it on the recommendation of an inspector, which I say was wrong. That selector through his ignorance, through no act of his own, and through not knowing the law, lost his selection. A more cruel case never happened.

Mr. BRUNKER: Did he appeal?

Mr. JONES: There is no doubt that he had not the money with which to appeal. I know the case very well. I did all I could to assist the man. The case was put as plainly as possible before the Minister. Statements were sent in by a number of people on the subject showing that he was a *bonâ fide* selector, and his case was supported by the affidavit of a justice of the peace; but, notwithstanding all that, the land was forfeited, and directly afterwards it was taken up by another selector. I say that the Minister should have a discretionary power in cases of that sort to give back to a man what properly belongs to him. It should be in the power of a minister to reverse the decision of the land board. I think that at times the boards are very harsh in their decisions. They stick to the letter of the law.

An HON. MEMBER: Some of them!

Mr. JONES: I presume that it is where it suits their purpose very often. It seems that the recommendation of the inspector is a thing that they dare not disregard. The land board carry out their functions, and the Minister confirms their recommendation. I think a discretionary power should be placed in the hands of the Minister; therefore I intend to support the amendment.

Mr. CHANTER: There are one or two points which perhaps some hon. members may not see. They may be inclined to think it is a very easy thing for a selector to appeal to the land board or Land Court. But it should be remembered that the land boards are hundreds of miles distant in some cases, and unfortunate people with only a few pounds in their pockets cannot afford to lodge an appeal, and spend two or three weeks at a place 150 miles, and in some places 500 miles away. What we want to do is to give the greatest facilities to a poor man to acquire land. We want to take away all these troubles from him, and not drive him into the hands of my hon. friend who moved the amendment. Why should a man be called upon to go first to the land board, and then to the Land Court? In nine cases out of ten, the class of selectors we are contending for have not the money to meet this expense. No one knows better than the Minister that a great proportion of the selectors have not very high educational attainments; they do not thoroughly understand the law, but go upon the equities of the case, and so fail in some respect to comply with the letter of the law. My experience of the land

boards is that they adhere strictly to the letter of the law, and not to its spirit. I will cite a case. The selection of a young man in the district I represent was forfeited for non-residence. What were the facts as ascertained upon inquiry? The inspector of conditional purchases went on a tour round that district; he called at this man's selection, and because he did not find him there on that particular day he reported him as non-resident, and the land board, presided over by the gentleman alluded to by the hon. member for Bourke, actually forfeited the selection, although it was proved that the man had simply ridden in to the nearest town, 20 miles away, to get his horse shod. It cost the young man a lot of trouble, worry, and anxiety, and were it not that my hon. colleague and myself were able to go to the Minister, and explain the case fully to him, he would never have got his land back. These are the men we want to protect. I could cite cases innumerable. As regards the case I alluded to just now, the Minister will say, as he said then, that his heart bled for the man who, after holding possession for twelve years, lost his land from the want of a little discretion in the Minister's hands. Is the hon. member afraid to reserve to himself the right to step in in these genuine cases, and do justice to unfortunate people? We do not want to look after the rich selector; he can look after himself. We want to put on the land the man who has only his bone and sinew to rely upon. It would be a cruel thing if the Committee allowed the power to redress these wrongs to be taken out of the Minister's hands. It is impossible in all these cases to comply with the provisions of the law. For instance, a man with a wife and family goes to reside upon a selection. He is called away to attend the land board, perhaps at Hay or Narrandera, hundreds of miles distant; and even, perhaps, to Sydney. Would it not be far better, in every *bonâ fide* case, to let the representative of the district, who knows the selector, go to the office and represent the facts to the Minister, who could send the case on to the land board for inquiry? We do not want the Minister to do anything in a hole-and-corner fashion. We want him to do everything in the light of day. We want to enable the Minister when the letter of the law is of such a character as will work injustice and ruin, to step forward and administer the law according to its spirit and in the interest of *bonâ fide* settlement. The Committee need not be afraid to place this amount of power in his hands, because he is always responsible to the House, and we are responsible to the country. The bill places this power in the hands of the members of the land board and court, who are responsible neither to the Minister nor to this House.

Mr. HASSALL: The Minister proposes to provide against an injustice being committed in the future. Clause 6 provides for a waiver of forfeiture, so that if any selection be liable to forfeiture by reason of non-compliance with certain conditions the Minister shall have power to deal with that case. Our argument is that where an injustice has been done it should be reversed.

Mr. BRUNKER: Does not the clause in the first line say "has or shall become"?

Mr. HASSALL: It says where it "has become" liable to be forfeited, but not where it has been forfeited. I know the case of a man who lived four years and seven months on a selection with his wife and family, and in consequence of his wife's ill health he had to go to the nearest town to place her under a doctor's care, and provide her with every possible comfort during the last five months of the term, and his selection is forfeited on the ground that he did not fulfil the condition of residence. In a case of that sort, I want the Minister to exercise a discretionary power. A man spends nearly five years on his selection; he fences the land and complies with all the conditions up to that point; and when it comes to a question of fulfilling the condition of residence or seeing his wife die under the roof he has erected, should his selection be forfeited? Is it a right way to administer the law to tell a man that where an injustice has been committed, he will have to rest satisfied under that injustice, but that we shall make provision for those who come after him? Surely that is not the way we are going to administer the law! If a wrong has been done, let it be remedied. I ask the Minister, as one who knows something about trying to make a living on the land, to do what he should do as an honorable and straightforward man—

to reverse a decision when he knows that an injustice has been committed, as in the case I have cited.

Question—That the words proposed to be omitted stand part of the amendment—put. The Committee divided:

Ayes, 27; noes, 56; majority, 29.

AYES.

Barton, E.	Grahame, W.
Bowman, A.	Hart, J. S.
Brown, H. H.	Kidd, J.
Brunker, J. N.	Lonsdale, E.
Carruthers, J. H.	Parkes, V.
Copeland, H.	Scobie, R.
Cullen, J. F.	Suttor, F. B.
Donald, G.	Tonkin, J. E.
Edden, A.	Torpy, J.
Ewing, T. T.	Traill, W. H.
Farnell, Frank	Young, J. H.
Garrard, J.	*Tellers,*
Gillies, J.	Haynes, J.
Gould, A. J.	Lee, C. A.

NOES.

Allen, A.	Jones, R.
Barbour, R.	Kelly, A. J.
Barnes, J. F.	Kirkpatrick, J.
Bavister, T.	Langwell, H.
Black, G.	Lees, S. E.
Bowes, J. W.	Lysaght, A.
Brown, E. G.	McGowen, J. S. T.
Cann, J. H.	Miller, G. T. C.
Chanter, J. M.	Morgan, J.
Clark, E. M.	Neild, J. C.
Clark, G. D.	Newman, H. W.
Colls, T.	Newton, J.
Cotton, F.	Nicholson, J. B.
Crick, W. P.	O'Sullivan, E. W.
Danahey, C. J.	Perry, J.
Darnley, E.	Rose, T.
Davis, T. M.	Ross, Dr. A.
Dickens, E. B. L.	Scott, D.
Donnelly, D. C. J.	Sharp, W. H.
Fegan, J. L.	Sheldon, J.
Gardiner, A.	Stevenson, R.
Hayes, J.	Vaughn, R. M.
Hindle, J.	Wall, W. C.
Holborow, W. H.	Williams, T. H.
Hollis, Dr. L. T.	Willis, W. N.
Houghton, T. J.	
Howe, J. P.	*Tellers,*
Hutchison, A.	Dangar, O. O.
Johnston, J.	Hassall, T. H.

Question so resolved in the negative.

Council's amendment, as amended, agreed to.

Clause 4. No provisional or absolute reversal heretofore made of any forfeiture which had previously been duly notified or declared shall be deemed to have had the effect ascribed thereto by the last preceding section as against any application to purchase or lease conditionally or otherwise the lands, or any part of the lands, which were the subject of such forfeiture, if such application was duly made, and was not refused, withdrawn, disallowed, or otherwise finally disposed of before the twentieth day of October, in the year one thousand eight hundred and ninety. And no provisional or absolute reversal hereafter to be made of any forfeiture shall defeat any valid application for a conditional purchase, or conditional or homestead lease, which shall have been lodged before the receipt by, or on behalf of, the Minister of a request in writing for such reversal, unless the applicant shall consent in writing to such reversal.

Motion (by Mr. BRUNKER) proposed:

That the Committee agree to the Legislative Council's amendment of clause 4.

Mr. COPELAND: I beg to move:

That the word "defeat," line 16, be omitted with a view to insert in lieu thereof the following words:—"debar from equitable rights to compensation."

Mr. CRICK: Surely the Minister will not accept such an amendment, or if he does, either he or the hon. member who proposes it, should put it in something like an intelligible form. Whoever heard of an "application" going into a court of equity and suing? But the hon. member asks the Committee to say that an application—something written on a sheet of blue paper—may go into a court of equity and claim certain rights. He proposes to omit the word "defeat," and hon. members will at once see how ridiculous the clause will read:

And no provisional or absolute reversal hereafter to be made of any forfeiture shall debar from equitable rights to compensation any valid application for a conditional purchase.

Not the applicant, but the application. The hon. member gives the applicant himself no rights at all; but a sheet of blue paper, if so advised, on getting an attorney to take up the case, may go into the Court of equity.

Mr. COPELAND: It is usual to move one amendment at a time!

Mr. CRICK: It is usual to state the substance of amendments to be subsequently proposed, so as to make them intelligible.

Mr. COPELAND: I did state the substance of the amendment that I intend to propose!

Mr. CRICK: If the hon. member will look at *Hansard* to-morrow he will see that he did not say a word about a subsequent amendment.

Mr. COPELAND: It was not necessary. Common-sense should tell the hon. member that the subsequent part of the clause would have to be altered!

Mr. CRICK: The hon. member's idea of common-sense got a nasty fall in the last division. If the clause is altered so as to give certain claims, I presume they will be against the Government. It is no use putting in the word "equitable." We must leave the people to their ordinary legal rights, and the way to do that is to strike out the whole thing, for there is nothing in the bill taking away any legal rights. If any one has any claim for compensation, will the hon. member show me where it is taken away—will he show me, either in any act or in the bill before the Committee, where the right is taken away? I certainly cannot see it. Is it advisable to have 3,000 actions brought against the Crown? If we give the right to one, we must give it to all. I do not see why I, as an attorney, should oppose that, for I suppose that out of the 3,000 actions, I should get a fair share, probably half, and very likely the balance of them would go to the new lawyers whom the hon. member for Paddington, Mr. Neild, is going to make. That will be a good start in life for those unfledged lawyers. If I stand alone, I shall certainly vote against the proposed amendment, unless the hon. member explains how he intends to make it intelligible. In any case I shall vote against instituting this number of actions.

Mr. BRUNKER: This refers to forfeitures hereafter to be made!

Mr. CRICK: Well, I do not know where the justice of the hon. member comes in if he is only going to give a man hereafter the right of action. Surely the men who have already lost their land should have a right of action if others hereafter are to have a right of action. But I cannot see that there is any right of action. I should like the hon. member to put a case where there could be a right of action. The forfeitures are to be provisionally reversed under the bill, and the information will be immediately communicated to the land agent, and anybody going to him to apply for the forfeited land will be informed of the position of affairs, and if he take it up in the face of that, he ought to have no right of action against the Crown.

Mr. BRUNKER: The board has to deal with his application in the first place!

Mr. CRICK: Yes, the board has to deal with his application, and I do not see any necessity to give a right of action—indeed, I cannot see where any right of action could come in. The hon. member put the case where land is forfeited and somebody comes along and selects it, lives on it a couple of years, and erects a domicile on it, and then the Minister finds that the forfeiture has been wrong, and reverses it. Well, in the first place, when are we going to get such a minister? Does the Committee really think that there is ever going to be a minister who would go this length—that, if any application has been before the land board, and been confirmed, and the man happens to be in possession, the Minister will turn round and reverse the forfeiture? I cannot conceive such a case; but if it is the intention of the Committee to give this right of action, I do not suppose there ever will be an action, unless some speculative party take the matter up. Anyhow, I implore the Committee to put the amendment in intelligible and plain English, and not send the bill back to the Legislative Council for them to alter it again, and return it to us, and for it to go back again, whereas it should be passed without any delay. For the present I shall oppose the amendment.

Mr. WALL: I should like some explanation from the Minister as to how the clause is going to operate. According to my interpretation of the Land Act of 1889, it seems to me that if the land is available, the board must grant the application. If the board grant the application, and if the Minister afterwards set it aside the legal rights will exist without any special provision being inserted in the bill. I believe I interpret the act correctly, and I think that it has been similarly interpreted by the Minister to provide that if the land is available the boards are compelled to grant the application. If the application is conceded, and the legal right exists, I take it that the right can be enforced in any court. The section to which I refer, section 13, reads as follows:—

> When the land has been measured, if no sufficient objection exists, and the local land board be satisfied that the applicant has, *bonâ fide*, applied for the land for his own sole use and benefit, either wholly or subject to the provisions of section twenty of this act, the board shall in open court confirm such application as made or modified, subject to payment as prescribed of any necessary extra deposit.

That is with regard to modified applications, but in any case it is not only the

interpretation of the act, but also the custom of the department, and I fail to see how the Minister is going to interfere with an application, because the boards are compelled by the acts of 1889 and 1884 to confirm the application; therefore there is a legal right against the Minister setting aside an application that has been granted by the board, and which they were compelled to grant, and I take it that any person aggrieved would have the option of going into court and recovering compensation from the Minister who set aside the application. I do not see the necessity for the amendment. If the application of a person who, under the acts of 1884 and 1889, is entitled to the land, is set aside, the Minister is not in a position to take from him that to which he is legally entitled, without giving him an opportunity to obtain redress at law for any grievance.

Mr. COPELAND: If the Minister is not likely to reverse a forfeiture, there is no need for this bill at all. If the Minister does reverse a forfeiture, and there happens to be a second party interested, how are you going to deal with that second party? The hon. member for West Macquarie says he cannot imagine a minister reversing a forfeiture when somebody else was in possession; but somebody else might take up the land on the thirty-second day after the forfeiture; and that man must have his rights protected. If the second man gets the land, what is to become of the first man? If the forfeiture was valid and equitable, the first man, of course, would have no claim for compensation, and the Minister would not want to reverse the forfeiture. But if the forfeiture is reversed, and the land has to be given to the first holder, how can justice be done to the man who made application for the land after the forfeiture? You must give compensation to the second man according to the amount of improvements he has placed on the land. I am not going to trouble over the clause. If the House chooses to ignore equitable rights, I am perfectly content. The responsibility does not lie with me. As far as carrying out the amendment is concerned, that is very simple. All that will be required after this amendment is carried is to move the insertion of three or four additional words in the clause. I am not responsible for the drafting of the clause; but I have to move my amendment so as to dovetail with the other words of the clause.

Mr. SHELDON: It seems to me that the addition of this amendment will leave the door open for the possibility of dummying or blackmailing. As the Secretary for Lands has agreed to accept this amendment, I should like to know from him whether there will be any particular provision further than the word "valid"; otherwise it may lead to dummying or blackmailing.

Mr. CRICK: The Committee would do well to consider now what they are proposing to do or they may be successful, as they were in my absence last night, in performing some very peculiar verbal gymnastics. If the Committee inserts the words proposed by the hon. member for New England we shall destroy the clause, and the whole amendment will have to be negatived. The whole case has been put in a nutshell by the hon. member for Mudgee. There is nothing in this bill which will take away any rights possessed under the Land Acts, so that there is no necessity for the amendment made by the Council. The proper thing for the Minister to do is to cut out this amendment. I know nothing in the bill which takes away a right. If people have any rights against the Crown they can proceed upon those rights. Take the very case in point where the first selector lost the land and a second selector got it. Whether the first selector has any action against the Crown or not is a matter that would have to be determined either by himself or by those who advised him. Certainly, if he has any action against the Crown, there is nothing in this bill which takes away his right. The hon. member is now asking us, in the most crude way, to say that we will not take away a right which we have never sought to take away. The Minister should show us some reasons for consenting to accept the Council's amendment, or the amendment of the hon. member for New England. I prefer that the amendment of the hon. member for New England should be put in instead of the Council's amendment, because the hon. member's amendment will give an entirely different meaning to the clause. At the same time, it will be senseless and meaningless, as it will equally effect my object

of destroying the Council's amendment. I do not know why I should oppose it. But if the Minister admits these words, he will have a difficulty in putting in any words to make the clause intelligible. I would advise the Minister to negative the whole of the amendment made by the Council. This amendment will be a direct repeal of sub-clause III clause 3.

Mr. CHANTER: I think it is due to the Committee that the Minister should explain what would be the effect of this amendment.

Mr. BRUNKER: I think the hon. member was in the Chamber when I said that I would accept the amendment, and that I thought it meant nothing more than what was already contained in the clause, and, therefore, I would not object to it. I believe the clause will have no greater effect with the words proposed to be inserted by the hon. member for New England (Mr. Copeland) than it has without them. I think I thoroughly explained before that I did not think it would be desirable to deprive any person of his right to a claim for compensation.

Mr. COPELAND: If the amendment has no effect what is the use of accepting it? I leave the responsibility with the Minister!

Mr. CHANTER: Where is the necessity for the Council's amendment at all?

Mr. CRICK: Hear, hear! We ought to negative the whole amendment!

Mr. BRUNKER: The amendment, I take it, is inserted for the sake of greater caution. While clause 4 provides for absolute reversals heretofore made, this clause makes provision for reversals which may be made hereafter. The one clause provides for the past, while the other provides for the future.

Mr. COPELAND: I am surprised to hear the Minister make the speech he has just now made. When I have said what I intend now to say the Committee can do what they please with the bill. If the Committee are so obtuse, and if the Minister is so obtuse, that they do not see the effect of the amendment, I must leave the responsibility with them. The amendment reads:

> And no provisional or absolute reversal hereafter to be made of any forfeiture shall defeat any valid application for a conditional purchase, or conditional or homestead lease, which shall have been lodged before the receipt by, or on behalf of, the Minister of a request in writing for such reversal, unless the applicant shall consent in writing to such reversal.

The effect of the amendment is this: that the Minister, however he may be impressed with the fact that the original forfeiture has been wrongly and unjustly made, cannot, if the bill be passed as it now stands, go behind the second application and do justice to the man who originally held the land. However egregious an error may have been made in forfeiting the land, the Minister will not be able to reverse the forfeiture if some one else has possession of the land. If the Minister and the Committee desire to pass the bill in this form I cannot help it. I shall have done my duty as an ex-minister. I knew as much of this question as I know now years before the hon. member for West Macquarie came into the House, and if the Committee are determined to take the advice of hon. members who are interested in getting jobs through a ministerial department, let them do so.

Mr. CRICK: I do not know what the hon. member means by saying that hon. members are interested in getting jobs through a ministerial department. I deny that I have ever approached a minister or any one else in an improper way since I have been in the public life of this country. My character is quite as good as the hon. member's in that respect. When the hon. member is beaten he growls, and if he is still further beaten he becomes offensive. No man is more touchy than is the hon. member under circumstances of that kind. I took up the case to which reference has been made, as it might be taken up by any attorney, and I was successful. The chief difference between the hon. member and me is that, if he had taken it up, he would not have been successful, although he would probably have been paid all the same.

Mr. HAYES: I thought the hon. member for West Macquarie pointed out very clearly, early in the evening, that one of the clauses of this bill was inconsistent with another. Sub-clause III of clause 3 provides that, when the reversal of a forfeiture takes place, the land shall revert to the original selector, whereas the amendment in this clause provides that, if a valid application be lodged hereafter, it cannot be interfered with. The one clause is in-

inconsistent with the other; and, unless the amendment of the hon. member for New England be carried, the bill will be unworkable. We must, if the bill is to be made workable, either accept the amendment of the hon. member for New England or strike out the proviso of the Legislative Council.

Mr. BRUNKER: I have accepted the amendment!

Mr. WALL: An ex-secretary for lands has imputed to certain hon. members the motive of getting jobs through a ministerial department. I have taken an active part in this debate, and I may say that my transactions with the Minister have been quite as clean as were those of the hon. member in his capacity of Minister. With all respect to the Committee, the clause now before us is simply nonsensical, and no amount of argument can relieve it of its logical defects. It is said in the Council's amendment—for what purpose I do not know—that no reversal shall interfere with a valid application. The act provides for that. What, therefore, becomes of the claim for compensation? I maintain that a valid application cannot be set aside. Let hon. members read the amendment of the Legislative Council, and tell me where the right to compensation can come in? If an application be made the fact of the reversal will not reverse the application.

Mr. COPELAND: What becomes of the original selector whose land is wrongly forfeited, if we keep a second man in possession?

Mr. WALL: The original selector, if the land be wrongly forfeited, has his remedy at law against the Minister. If the reversal of the forfeiture takes place, there can be no claim for compensation whatever, because the original selector would obtain the land. Where a valid application is lodged the Minister cannot reverse at all, so that all we have heard as to the compensation of the applicant is so much claptrap. The Minister cannot refuse an application if it be valid. We can, therefore, dispense with that phase of the question. If a reversal takes place the reversal compensates the original applicant by restoring his land to him. If the reversal does not take place and the land is forfeited contrary to law the original holder of the land has his remedy against the Minister.

Mr. CRICK: The Minister cannot reverse contrary to law!

Mr. WALL: We might just as well strike out the amendment, because it can have no effect whatever. The act provides that the valid applicant for the conditional purchase must get the land, that a valid application must be granted. It was in order to do away with the arbitrary power exercised in the granting of these applications, that a provision was inserted in the Lands Act of 1884 to give the applicant some title on application, and this clause simply reiterates what is provided there. It seems to me that the amendment is of no use whatever, and that the argument of the hon. member for New England is simply absurd.

Mr. CRICK: I should like to know from the Minister what steps he proposes to take? It must be clear that the only possible course to take is to strike out the whole of the Council's amendment.

Mr. BRUNKER: I have already consented to accept the amendment of the hon. member for New England; but it seems to me that it will make the Council's amendment almost unintelligible. If the hon. gentleman submits it in a form in which it can be legally interpreted, I shall have no objection to accepting it; but under other circumstances I am not particular whether the Committee do or do not accept it. I myself think that the whole provision will be covered by subclause III of clause 3.

Mr. CRICK: Strike it out altogether!

Mr. HASSALL: The arguments of the hon. member for Mudgee must commend themselves to the Committee. It is utterly impossible for the Minister to reverse a forfeiture where a valid application has been made in the meantime, because an application could not be valid, and could not be entertained unless the land were available, and as has been already pointed out, we are already protected under the act. Nothing that the Minister could do would defeat a valid application. If a conditional purchase, a conditional lease, or a homestead lease has been forfeited, the land is available for selection on the expiry of thirty days from the gazettal of the forfeiture, and in the event of an application for that land, the Minister cannot reverse the forfeiture and put the original occupant in possession of the land.

An HON. MEMBER: The bill proposes to give him that power!

Mr. HASSALL: No, the provision attempts to deal with it in that way. I quite agree with the hon. member for West Macquarie, that the amendment of the hon. member for New England would open the door to bogus claims for compensation, and I think that the proper thing to do is to eliminate the Council's amendment.

Mr. BRUNKER: The remarks of the hon. member cannot be better illustrated than by the case which brought about the introduction of the bill, which shows very clearly that a valid application cannot be set aside. O'Brien, by the non-payment of his rent, rendered his conditional purchase liable to forfeiture. This was notified in the *Gazette*, and the land was applied for by Pirie. The land board refused to confirm his application, which was upheld by the Land Court on the ground that the land was Crown land, and this decision was confirmed by the Supreme Court, which shows that a valid application cannot be set aside.

Amendment negatived.

Council's amendment disagreed to.

Clause 7 (Provision against collusion at ballots upon conflicting applications).

Motion (by Mr. BRUNKER) proposed:

That the Committee agree to the Council's amendments in clause 7.

Mr. HAYES: There is a strong feeling in my district that when an application is withdrawn, instead of allowing the land to go to the next applicant, the whole matter should go to the ballot again in the ordinary way, and thus prevent collusion.

Mr. BARBOUR: And have the same thing repeated!

Mr. HAYES: I do not think that is probable. The feeling is very strong in my district in reference to this, and I desire to ask the Minister if he intends to make a regulation providing that where there is a withdrawal the land shall go to the ballot again?

Mr. BRUNKER: The clause, in its present form, gives me power to make a regulation; but I do not promise to make a regulation that will cover what has been stated by the hon. member.

Mr. CHANTER: I hope the hon. member recognises that the matter referred to by the hon. member for The Hume is one of great importance.

Mr. BRUNKER: A regulation will be framed with a view to prevent the chicanery and fraud that now take place in connection with the ballot for land; but I am not now in a position to say what particular form the regulation will take.

Mr. CHANTER: Hardship may occur in a case where the application may have been made in error. There may have been a slight error in the description, and it is very hard upon the applicant that he should have to make a second deposit, and have to wait for his money. In making any regulation, the Minister should have power to deal with such cases where recommended by the board. I agree with the hon. member for The Hume that some effort should be made to prevent collusion by which the rich man seeks to obtain the land as against the poor but *bonâ fide* applicant; but while doing this we should consider the exceptional cases, where it is necessary to withdraw an application owing to an error in description by the department, and provide that the poor man should not be so long deprived of the deposit he has lodged, and which is locked up in the department for four months. With regard to the ballot, the proper principle is that all the applications should go to the land board. At present a Crown land agent receives half a dozen applications for one piece of land. He knows that four of them are dummy applications, and yet he has no option but to put the marbles into the box—to put the dummy applications in with those of *bonâ fide* men. If there are fifty applications let them all be received, and let them go to the land board to be dealt with in open court, and let the land board sweep away all the dummy applications at once. This would do away with the evil of one man being able to put in half a dozen applications. In the land legislation of the other colonies this principle has been adopted with most beneficial results.

Mr. BRUNKER: If the hon. gentleman will read the clause he will see that a regulation can be made providing for what he has pointed out!

Mr. CHANTER: This clause only applies to the case of a man putting in more than one application. What I want is that all the applications should go before the land board for inquiry. The *bonâ fide*

man has nothing to fear from the land board, while the dummy has everything to fear.

Mr. HAYES: I think the Minister hardly sees the point raised by the hon. member for The Murray. Only last month a reserve in The Hume district was thrown open, and at least twelve dummy applications were put in as against the *bonâ fide* selector. In Victoria all the applications are sent to the land board, who make a final determination, and the dummy has very little chance there. Under this clause a man can still put in eight or ten dummy applications, and if one of these dummies gets the land it will, of course, revert to the squatter. In many cases the *bonâ fide* selector has to fight at least twelve dummies. This is a constant complaint throughout the country, as the Minister is aware, for the matter is brought under his notice from time to time. The alterations in the law now being made will be of great value, because the immediate withdrawal of dummy applications will be prevented.

Mr. BARBOUR: I have great sympathy with the object intended; but I do not see how it is to be accomplished. Suppose six persons apply for a selection. Three of them may be dummies, but all appear to be *bonâ fide* applicants. Who is to say whether any of them are or are not dummies? There will be a great difficulty in doing it.

Motion agreed to.

Reported that the Committee had amended one, disagreed to another, and agreed to the rest of the Legislative Council's amendments in the bill; report adopted.

SEAT OF MR. WHEELER.

The following report of the Elections and Qualifications Committee was brought up by Mr. F. B. Suttor:—

The Committee of Elections and Qualifications, duly appointed on the 16th July, 1891, to whom was referred, on 29th July, 1891, a petition from James Eve, alleging "that at the last general election of members to serve in the Legislative Assembly, petitioner was one of the candidates duly nominated for the electoral district of Canterbury, when a poll was demanded; that the petitioner was duly qualified to be elected; that the returning officer certified to the return of Joseph Hector Carruthers, Thomas Bavister, Cornelius James Danahey, and John Wheeler, as duly elected; that petitioner is advised, and believes that the said John Wheeler is unduly elected; and that he, the petitioner, should be declared elected, or a new election ordered upon the grounds—(1) That at Canterbury polling booth a number of ballot-papers used were in writing and not printed, and that such ballot-papers were not issued by the returning officer to the presiding officer; (2) That the Marrickville polling booth was not opened until twenty minutes past 8 o'clock, and consequently some electors were unable to vote; (3) That certain votes were rejected as informal which should count as votes to petitioner; (4) That the votes have not been correctly counted; (5) That at Five Dock polling booth the said John Wheeler was given one more vote than he was entitled to, and your petitioner was deprived of one; and (6) That the election was otherwise irregularly conducted; and praying that the said John Wheeler may be declared to be unduly elected as a member to serve in the said Assembly, and that petitioner may be declared elected as such member, or that a new election may be ordered to take place"—have determined, and do hereby declare:

1. That John Wheeler, Esquire, who was returned as elected by the returning officer, was not duly elected as a member of the Legislative Assembly for the electoral district of Canterbury.
2. That James Eve, Esquire, who was not returned by the returning officer, was duly elected as a member of the Legislative Assembly for the electoral district of Canterbury.
3. That the petition is not frivolous or vexatious.
4. That the committee make no award as to costs.

F. B. SUTTOR, Chairman.

No. 1 Committee Room,
2nd September, 1891.

ADJOURNMENT.

Mr. BRUNKER: As we had a late sitting last night, I do not suppose hon. members are anxious to go on with any further business to-night; but I should like to have an expression from hon. members as to their wishes.

HON. MEMBERS: Adjourn! Adjourn!

House adjourned at 11·8 p.m.

Legislative Council.

Thursday, 3 September, 1891.

Hawaiian Islands as a Cable Terminus—Artillery Officers—Land Company of Australasia Railway Bill—Kynoch Rifle Ammunition—Supreme Court Procedure Bill—Voluntary Conveyances Bill—Infants Protection Bill (second reading)—Jamberoo and Kiama Boroughs Naming Bill (second reading)—Crown Lands Act Amendment Bill—Land Company of Australasia Railway Bill (second reading)—Differential Customs Duties.

The PRESIDENT took the chair.