

given, and in order that hon. members, generally, may have an opportunity of acquainting themselves with the details of the measure. I do not wish to move the adjournment of the debate; at the same time I think the debate ought to be adjourned.

The Hon. R. E. O'CONNOR: I quite admit there are matters in connection with the 3rd clause which are susceptible of difference of opinion. I do not wish to force the consideration of the bill. At the same time, as the hon. and learned member has himself admitted that there is a good deal in the bill which is commendable, time would be saved if the second reading were carried to-night, and we went into Committee *pro formâ*. I would point out that this is not like a bill which contains some one principle running all through it, to which hon. members might object, but it contains a series of amendments and enactments each of which can be dealt with independently of the other. If that is so the Committee is the proper place for dealing with them. We certainly gain a considerable step in advance by disposing of the second reading of the bill to-night. Any difficulties which may occur may easily be ventilated in Committee. Although the bill ought not to be hurried, hon. members will see there is a necessity for not unduly delaying it. Under the circumstances, I must ask the House to pass the second reading to-night.

The Hon. H. C. DANGAR: If I am in order I will move the adjournment of the debate.

The PRESIDENT: The hon. member will not be in order as he has already spoken.

The Hon. G. H. COX: I move:

That the debate be adjourned to Wednesday next.

I move the adjournment of the debate, because of the smallness of the attendance and the importance of the measure as affecting the interests of the community.

The Hon. R. E. O'CONNOR: I do not know that very much can be gained by proceeding with the second reading to-night, and as it appears to be the general wish I consent to the adjournment of the debate.

Motion agreed to; debate adjourned.

House adjourned at 7.44 p.m.

[The Hon. H. C. Dangar.]

## Legislative Assembly.

Thursday, 7 December, 1893.

Amended Land Bill—Maintenance Men—Pharmacy Bill—Chandler's Creek Gold-mining Company—Mount Poole Marvel Mine—Mr. Hatch—Mr. Smyth—Lepers at Little Bay—Minister holding Brief against Crown—Retrenched Officers—Zigzag Railway at Lithgow—Government Service: Typewriter—Permanent Staff of Partially-paid Force—Estimates of Expenditure—Appointments in Government Service—Metropolitan Water and Sewerage Act Extension Bill—Acting-Chairman of Committees—A. Daly—Personal Explanations—Liquor Traffic Local Option Bill—Adjournment (Proudfoot v. Railway Commissioners—Statement of Attorney-General).

Mr. SPEAKER took the chair.

### AMENDED LAND BILL.

Mr. MCFARLANE asked the SECRETARY FOR LANDS,—Has he arrived at a decision as to whether an amended land bill will be introduced during the present session?

Mr. COPELAND answered,—The Cabinet have not yet decided.

### MAINTENANCE MEN.

Mr. MCFARLANE asked the SECRETARY FOR PUBLIC WORKS,—(1.) In view of the rapidly increasing revenue, will he take early steps to reinstate the maintenance men whose services were recently dispensed with? (2.) Will he give instructions to expend the balance of road votes authorised for expenditure for 1893, so that urgent road works can be carried out?

Mr. LYNE answered,—(1.) As I explained before, sufficient maintenance men have been and will be taken on to keep the roads of the colony in the usual state of repair. (2.) Sufficient money will be spent out of this year's road votes to carry out the works referred to in question No. 1.

### PHARMACY BILL.

Mr. WILLIAMS (for Mr. DAWSON) asked the COLONIAL SECRETARY,—Is it the intention of the Government to pass a pharmacy act this session?

Sir GEORGE DIBBS answered,—It is not the intention of the Government to bring in any bill on this question this session.

### CHANDLER'S CREEK GOLD-MINING COMPANY.

Mr. STEVENSON (for Mr. A. HUTCHISON) asked the SECRETARY FOR

MINES AND AGRICULTURE,—(1.) Is it a fact that the rents of the Chandler's Creek Gold-mining Company leases are overdue? (2.) If so, why are the leases not cancelled? (3.) Is it a fact that the mine has been idle for five months? (4.) Is it a fact that the company have removed the whole of the machinery off the ground, and has such not been reported to his department? (5.) Does he intend to cancel the leases?

Mr. KIDD answered,—(1.) The rent on two leases is overdue, and action in regard to these is under consideration. On one lease rent is paid to the 18th July, 1894. (2.) Answered by No. 1. (3.) This is probably a fact. (4.) No; so far as is known in the department. (5.) Answered by No. 1.

#### MOUNT POOLE MARVEL MINE.

Mr. STEVENSON (for Mr. A. HUTCHISON) asked the SECRETARY FOR MINES AND AGRICULTURE,—(1.) Is it a fact that the Mount Poole Marvel mine, Dalmorton, has been idle for months, and that the leases have not been cancelled? (2.) Why have the leases not been cancelled? (3.) Does he intend to cancel them at once; if not, for what reason?

Mr. KIDD answered,—(1.) The mine is now at work. (2.) The matter is under consideration. (3.) Answered by No. 2.

#### MR. HATCH.

Mr. STEVENSON (for Mr. A. HUTCHISON) asked the POSTMASTER-GENERAL,—(1.) Is it a fact that Mr. Hatch, telegraph master, &c., at Newton-Boyd, is still retained there, notwithstanding that many months ago it was decided to remove him? (2.) For what reason has the department not put its decision in force? (3.) Is Mr. Hatch to be removed, and when?

Mr. KIDD answered,—(1.) Yes. (2.) An opportunity to provide him with another station has not yet occurred. (3.) Yes; so soon as such opportunity offers.

#### MR. SMYTH.

Mr. STEVENSON (for Mr. A. HUTCHISON) asked the POSTMASTER-GENERAL,—(1.) Is it a fact that an inspector was sent to Dalmorton to inquire into certain charges which were laid against Mr. Smyth, the postmaster there? (2.) If so, will he have any objection to lay the evi-

dence and report upon the table of the House, or supply a copy of the same?

Mr. KIDD answered,—(1.) Yes. (2.) The report and evidence are very voluminous, and, in my opinion, not of sufficient public importance to justify the labour of copying them; but it is, of course, open to the hon. member to move for them if he think fit, or to peruse them at the General Post Office, if he will call there for the purpose.

#### LEPERS AT LITTLE BAY.

Mr. T. WALKER (for Mr. J. D. FITZGERALD) asked the COLONIAL SECRETARY,—(1.) How many lepers are confined in the lazaret at Little Bay? (2.) How many of the total are Chinese? (3.) What were the occupations of the Chinese prior to their being discovered to be lepers? (4.) How many were engaged in the growing or vending of fruit, vegetables, or other articles of human food?

Sir GEORGE DIBBS answered,—The following information has been supplied by the Board of Health:—

(1.) 36. (2.) 19. (3.) Gardeners, 8; tin-miners, 4; cooks, 2; storekeepers, 2; carpenter, 1; woodcutter, 1; labourer, 1; total, 19. (4.) 8.

#### MINISTER HOLDING BRIEF AGAINST CROWN.

Mr. C. A. LEE asked the COLONIAL SECRETARY,—Has he since Friday, 1st December, informed his colleagues, the Attorney-General and the Minister of Justice, that the Cabinet cannot recognise the distinctions drawn by the Attorney-General in his explanation made in this House on Friday last between the Railway Department and other departments under the Crown?

Sir GEORGE DIBBS answered,—This is one of those peculiar questions that require a very intelligent man to answer. I confess it is, beyond my ability to answer it; in fact, it is one of those questions which no fellow can understand.

Mr. C. A. LEE asked the ATTORNEY-GENERAL,—Have his colleagues informed him during the past few days that they repudiate the statement made by him in this House on Friday last, to the effect that there is a distinction in legal matters between the Railway Department and other departments of the public service?

Mr. BARTON answered, — The hon. member, having been in Parliament for some years, should know that it is not likely, having regard to the present undisturbed condition of the Cabinet, that any such intimation has been made; and if he wants any further answer I should say that, as far as I can fathom the question, there is no foundation whatever for it.

#### RETRENCHED OFFICERS.

Mr. McCOURT asked the SECRETARY FOR MINES AND AGRICULTURE, — Have the retrenched officers of the Department of Agriculture received the same leave before retirement as the officers of the Public Works Department in similar circumstances; if not, for what reason?

Mr. KIDD answered, — The retrenched officers of the Department of Agriculture did not receive the same leave before retirement as officers of the Public Works Department, because they came under the operation of a decision arrived at after the officers of the Public Works Department had been dealt with. They have, however, been dealt with in respect of leave before retirement in the same way as other officers who have been retrenched since the date of the decision.

#### ZIGZAG RAILWAY AT LITHGOW.

Dr. ROSS asked the SECRETARY FOR PUBLIC WORKS, — (1.) What was the amount of money expended in the construction of the Zigzag at Lithgow? (2.) How much of this money or expenditure will be lost in the event of substituting a tunnel for the Zigzag, as now proposed?

Mr. LYNE answered, — (1.) Approximately at the rate of £20,000 per mile. I cannot give the exact figures, as the cost of the various sections was not kept in such a way as to give the detailed expenditure of a short piece like this. (2.) It can hardly be said that any money will be lost, as the work constructed has already answered its purpose during the many years the line has been opened.

#### GOVERNMENT SERVICE: TYPEWRITER.

Dr. ROSS asked the COLONIAL SECRETARY, — (1.) Has the use of the typewriter in the various departments of the Government service led to an increase or decrease of work and hands employed in the ser-

vice; if so, to what extent and at what extra cost? (2.) The number of typewriting machines at present in use in the Government service, and the cost of the same?

Sir GEORGE DIBBS answered, — If the hon. member will move for a return embracing the information he desires, I will endeavour to obtain it.

#### PERMANENT STAFF OF PARTIALLY-PAID FORCE.

Mr. McCOURT asked the COLONIAL SECRETARY, — (1.) Is it a fact that the payment to certain members of the permanent staff attached to the partially-paid force of travelling expenses is largely in arrear? (2.) If so, will he cause steps to be taken to ensure the payment of these moneys before the Christmas holidays?

Sir GEORGE DIBBS answered, — The following answers have been supplied by the Major-General Commanding the Military Forces: —

(1.) Yes. (2.) It is expected that the money will be available in the course of a few days, when these accounts will be paid.

#### ESTIMATES OF EXPENDITURE.

Mr. REID asked the COLONIAL SECRETARY, — Will he invite the House to take up the consideration of the estimates of expenditure without any further delay?

Sir GEORGE DIBBS answered, — The Government will proceed with the business in the order they think best for the country.

#### APPOINTMENTS IN GOVERNMENT SERVICE.

Mr. REID asked the COLONIAL SECRETARY, — Has he any objection to cause to be laid upon the table a return showing: — (1.) The total number of persons appointed by the present Government to the public service, either to permanent or temporary positions, up to 31st October last? (2.) The total number of persons so appointed by the present Government, either to permanent or temporary positions, whose services have been dispensed with, on the ground of retrenchment, up to the same date? (3.) The total number of persons, in permanent or temporary positions, dismissed on the score of retrenchment from the public service, who had been longer in the service than any of the persons so appointed by the present Government?

Sir GEORGE DIBBS answered,—There will be no objection, provided the information is moved for in the usual way.

# METROPOLITAN WATER AND SEWERAGE ACT EXTENSION BILL.

Bill read the third time.

## ACTING-CHAIRMAN OF COMMITTEES.

Motion (by Sir GEORGE DIBBS) *with concurrence*, agreed to :

That Jacob Garrard, Esq., do take the chair in Committee of the Whole House for this day only.

A. DALY.

*Ordered* (on motion by Mr. CHANTER):

That there be laid upon the table of this House copies of all letters, papers, reports, and other correspondence in connection with the application of A. Daly, selector, near Deniliquin, for a road from his selection giving him access to water in the Billabong Creek.

## PERSONAL EXPLANATIONS.

Mr. CRICK : I desire to make a short personal explanation. The other evening when the Postmaster-General moved for the introduction of the Local Option Bill I was asked if I would pair. I was against the bill, and I paired with Sir Henry Parkes, but in the published pairs I did not see that pair recorded.

Mr. INGLIS : I desire also to make a short personal explanation with reference to the same bill. I was asked by my hon. colleague, Mr. Copeland, to pair with him on that measure. I was in favour of local option and against compensation. I did not, however, see my name recorded in the pairs.

Mr. COPELAND : I did not vote either !

## LIQUOR TRAFFIC LOCAL OPTION BILL.

Mr. REID : I wish to ask the Postmaster-General whether he has omitted from his bill on licensing any provision for compensation ?

Mr. KIDD : If the hon. member will be kind enough to give the usual notice, I will answer his question to-morrow.

Mr. REID : I would like to explain to the hon. member that I asked him the question because I wished to pay him the courtesy of informing him at the earliest opportunity that if he has left out that provision there is just as fatal a defect in the present bill as the one I pointed out in the last bill.

## ADJOURNMENT.

PROUDFOOT v. RAILWAY COMMISSIONERS—STATEMENT OF ATTORNEY-GENERAL.

Mr. SPEAKER : I have received an intimation from the hon. member for Tenterfield, Mr. C. A. Lee, that he desires to move the adjournment of the House for the purpose of discussing a definite matter of urgent public importance, namely, "the danger to the public interest arising from the declaration made by the Attorney-General on Friday last, to the effect that the Railway Department as regards the Crown Law Department has ceased to be a department of the Crown, and that the Attorney-General and other members of the Cabinet are entitled in their professional practice to appear against that department in the law courts of the colony as if it were now a private business concern and not a great department of the state constantly dealing with the receipt and expenditure of vast sums of public money."

*Five hon. members having risen in their places,*

Question proposed.

Sir GEORGE DIBBS (The Murrumbidgee), Colonial Secretary [4.53] : I desire to submit a question of order, and that is whether the hon. member's motion is not an infringement on notices of motion on the business-paper ?

Mr. C. A. LEE (Tenterfield) [4.53] : I contend that the motion I have submitted in no way infringes on the motions of which notice has been given by the hon. member for Bourke.

Mr. SPEAKER : The hon. member was good enough to show me his motion before I took the chair, and I came to the conclusion that it did not infringe on any of the notices which already appear on the business-paper.

Mr. C. A. LEE (Tenterfield) [4.54] : The motion that I feel it incumbent to move this evening is of vast importance to the country ; and although, perhaps, I may not be able to deal with it with as much force as it deserves, it contains in itself a principle of such very great moment that whatever I may fall short of in the shape of argument will be found to be contained in the importance of the motion itself. Although it is well known that this motion has grown out of a matter that incidentally came before the House on a previous occasion, to which I cannot refer, and to

which I have not the slightest intention of referring, and although it is not exactly in the same terms, it has practically the same force and effect, and what it was my intention in the first instance to do it is my intention to do on the present occasion.

Mr. WILLIS : That is honest, anyhow !

Mr. C. A. LEE : Therefore, I hope this House will take my assurance that I have not in any way departed from the lines I laid down for myself originally. I took up the matter at first on a point which I conceived to be of very great importance to the country —

Mr. CRICK (West Macquarie) [4:56] : Before the hon. member proceeds any further, I would ask you, sir, whether you have taken notice of the hon. member's notice of motion, No. 14, as well as the motion of the hon. member for Bourke, because the hon. member now states that this motion for adjournment and the motion of which he gave notice are in substance and effect the same. The motion of which the hon. member has given notice is as follows :—

That the action of the Attorney-General and the Minister of Justice, in accepting briefs from Messrs. Proudfoot & Co. in their suit against the railway commissioners for the recovery of a large sum of money (which suit, if successful, must result in a demand upon the consolidated revenue), is inconsistent with their ministerial positions, and opposed to the public interest.

Mr. REID : That is word for word the same as the motion of the hon. member for Bourke.

Mr. CRICK : No, it is not. Then there is the construction the hon. member has just placed on this motion for adjournment. If it means anything it means exactly what the hon. member set out in his notice of motion. The only difference is that between calling a horse a four-footed animal and a quadruped.

Mr. SPEAKER : I would point out to the House and the hon. member for West Macquarie that the question which the hon. member for Tenterfield desires to raise now is a declaration made by the Attorney-General on Friday last to the effect that the Railway Department, as regards the Crown Law Department, has ceased to be a department of the Crown. Now, I confess I see great difficulty in an hon. member debating this question, because I shall not allow hon. members to refer to those matters which arise or are

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likely to arise under the motions on the business-paper, but that is for the consideration of hon. members themselves. If they think they can debate this question without that reference it is not for me to stop them.

Mr. C. A. LEE [4:58] : I accept your ruling, sir, in the matter, and it is my intention to confine myself to the subject of the motion, which is in itself quite wide enough for me to say all I have to say on the matter. I have no intention to deal with the question than from a perfectly logical point of view. I hold that there is involved in it a very great principle indeed.

Mr. CRICK : That is all the more reason for debating it on proper notice !

Mr. C. A. LEE : I have been prevented from doing so.

Mr. WILLIS : By the other side directly. Hon. members over there are like a lot of infants !

Mr. SPEAKER : Order !

Mr. C. A. LEE : Therefore I can approach this question without the slightest fear of bringing myself under your ruling, because really, after all, the question is in a nutshell, and it is not necessary to say much about it. It is so necessary that the House should pronounce an opinion on this subject, that I have taken the earliest opportunity of getting at it so as to give Parliament an opportunity of expressing an opinion, and when I have done that, I shall have discharged my duty to the country. Before I proceed to debate this matter, it will be necessary, of course, to see what the Attorney-General's declaration was. That declaration was made on Friday last, after the hon. member had had ample opportunity to consider the matter, because it was brought under the notice of the Attorney-General some days before.

Mr. CRICK : Is not the hon. member referring to the debates of the present session ?

Mr. INGLIS : The "buttoner" for the Government !

Mr. CRICK : You shut up. A very poor "buttoner" you would make. I do not know if this hon. member is allowed to interrupt me in this way, Mr. Speaker. The debate to which the hon. member is referring is a closed matter. It is not the continuation of a debate on the second or third reading

of a bill. What the Attorney-General said the other night is a closed debate, and therefore to refer to it is an infringement on the rules of debate.

Mr. J. H. YOUNG (The Hastings and Manning) [4.59]: On the point of order I wish to submit —

Mr. BARTON: If the hon. member would allow me I might save a great deal of time.

Mr. J. H. YOUNG: I shall give way if the hon. member wishes to make an explanation.

Mr. BARTON: My wishes in the matter may have some weight in the House.

Mr. REID: Is it on the point of order?

Mr. BARTON: No, but the point of order may not be insisted upon. I should like the hon. member for West Macquarie to hear what I have to say. I should like it to be taken by the House and by the hon. member for West Macquarie that there ought not to be any point of this kind raised.

Mr. REID: I object to that.

Mr. BARTON: Surely as much courtesy may be allowed to me as to any one else.

Mr. REID: It is not a point of courtesy, it is a point of order.

Mr. BARTON: I will argue the point of order.

Mr. J. H. YOUNG: Then I claim my right to do so first.

Mr. BARTON: I can quite understand the justice of this.

Mr. J. H. YOUNG (The Hastings and Manning) [5]: We do not want any favour. The point of order has been taken that anything which occurred in a previous debate cannot now be referred to. That, I admit, is the strict rule. But the explanation of the Attorney-General is not debate, and was made by him just as an answer would be given to a question, or a ministerial statement would be made. There could be no debate in those cases, and if any hon. member had risen to debate the hon. gentleman's explanation, he would have been ruled out of order. I submit that the hon. member for Tenterfield can quote every word of the hon. gentleman's explanation without being ruled out of order, and he does not require permission to refer to it as a matter of grace.

Mr. BARTON (East Sydney), Attorney-General [5.1]: I should like to say a few words on the point of order. I fully agree with what has been said by the last

speaker that an explanation is not a matter of debate. Therefore, putting aside the question of justice altogether, I welcome any remarks on the subject.

Mr. REID (East Sydney) [5.3]: I think it is important that we should repudiate the suggestion that there is any justice in the contention raised by the hon. member for West Macquarie. The Attorney-General must know better than that.

Mr. BARTON: I said that it was not a question of justice!

Mr. REID: If the contention of the hon. member for West Macquarie were correct, any minister could rise and make a startling statement affecting the public welfare. The Premier, for instance, might announce his intention of going to England again at the public expense *pro tem*, and there would then be no power on the part of the House to discuss the explanation. It is not a matter of justice at all, but as a matter of absolute right, that hon. members are entitled to quote the hon. member's explanation.

Mr. GOULD (Patrick's Plains) [5.4]: Every word the hon. member for Tenterfield desires to quote must show clearly that he is in order. He has moved the adjournment of the House to bring under notice certain remarks made by the Attorney-General several days ago. Surely, if he be permitted to move the adjournment of the House to discuss a question of that character, he must necessarily be permitted to refer to every word uttered by the Attorney-General on the occasion referred to.

Mr. SPEAKER: May says:

It is irregular to refer to past debates of the same session, either in a question or answer; but a departure from this rule has been occasionally permitted to clear up misunderstandings.

I do not think a ministerial statement, which is not made in reference to any question before the House when other hon. members would have the right of reply, can be said to be a debate. Therefore I think the hon. member for Tenterfield would be in order in making the quotations he desires to make.

Mr. C. A. LEE: I will proceed to make some quotations from the explanation made by the Attorney-General on Friday last. He said:

In the first place, I have to call the attention of hon. members to some matters which occurred some little time back. They will remember that at about the time of the accession of this Min-

istry to office the railway commissioners, having previously conducted their legal business through the Crown Solicitor's office, were desirous of making a change, and having a railway solicitor appointed, and they consulted the Government upon that subject. We expressed the opinion that we should much prefer their continuing to conduct their business through the Crown Law Office. We offered to make special provision in order that their business might, with perfect efficiency and expedition, be continued by enlarging the scope of that office, so that there might be no doubt on that point. The railway commissioners, however—and I am not here to call in question their judgment—preferred to have a solicitor of their own. We intimated that if they were to have a solicitor of their own it was very undesirable that they should appoint or do business with a solicitor who was a member of a private firm, so that papers relating to the Railway Department would be in the office of a solicitor, together with papers belonging to private clients. They recognised the justice of that view, and expressed their intention to appoint a railway solicitor for that purpose alone. But in the meantime they stated that they preferred to leave certain matters in the hands of Mr. Robert Smith, who had been acting Crown Solicitor, because he was the solicitor who had been concerned in them from the beginning, and to that view the Government assented.

Further on he says :

I was Attorney-General, and am Attorney-General, with the right of private practice, so long as I do not take any briefs, and I do not propose to do so, or to continue to hold any briefs, which will bring my position as Attorney-General into conflict with the interests of any department of the Crown. But I will point this out, that not only had that complete severance of the two departments—the Railway Department from the Crown Solicitor's Department—occurred at the time I came into office, but that severance has existed to this very day.

In reply to an interjection by the hon. member for Northumberland (Mr. Edden), "When it is against the Crown," the hon. gentleman said :

No, not when it is against the Crown. If the hon. member had been here at first he would have understood that I am explaining that the Railway Department as regards the Crown Law Department has ceased to be a department of the Crown.

And further on :

While the railway commissioners were in a position in which they stood absolutely severed from the Crown in regard to their legal business, I considered it my duty to accept the retainer.

Again :

That from the very beginning of their having a solicitor of their own, the railway commissioners have had counsel retained for themselves, and the Attorney-General has had as much connection with the railway commissioners as if he had been the Attorney-General of Queensland or Victoria. There has been absolutely no connec-

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tion . . . . . Either of these parties would succeed or not succeed. If the plaintiffs did not succeed, there was an end of the matter—they would have to pay the costs. If they did succeed, and got any verdict against the Crown, it would not be technically against the Crown, but against the commissioners.

As regards any matters of fact, they could not arise after the determination of the matter by a verdict. The verdict would have to be satisfied by the Crown in the ordinary way, by putting a sum on the estimates.

It is laid down very clearly in the hon. gentleman's declaration that in consequence of the railway commissioners being a corporate body and having a solicitor of their own, and having no legal business with the Crown law officers of the country, the Railway Department had ceased to be a department of the Crown so far as its legal aspect was concerned. It is also necessary to see what the Railways Act has to say in this matter. We find, in the first instance, the following interpretation of "Minister" :

Minister means the responsible minister of the Crown for the time-being administering this act.

Then there is section 10 :

The commissioners shall receive the following salaries, namely—

- (i) The chief commissioner—two thousand five hundred pounds per annum.
- (ii) Each of the other commissioners—one thousand five hundred pounds per annum.

All such salaries are hereby charged on the consolidated revenue fund, and such fund, to the extent required for the payment of such salaries, is hereby permanently appropriated.

And the 3rd sub-section of section 15 :

The commissioners shall pay such salaries, wages, and allowances to such clerks, officers, and employees respectively, as Parliament shall appropriate for that purpose.

Then, section 20 says :

All moneys payable to the commissioners, under this or any other act, shall be collected and received by them on account of, and shall be paid into, the consolidated revenue ; and the provisions of the Audit Act of 1870, and of any other act relating to the collection and payment of public moneys and the audit of the public account, shall, save as in this act otherwise expressly provided, apply to the commissioners and to all officers and employees under this act.

Section 42 is to this effect :

The commissioners may apply in writing to the Minister for additional stores, plant, material, rolling-stock, stations, sheds, and other accommodation which, in the opinion of the commissioners, may be required to enable them to meet the traffic requirements, or ensure the efficient working of the railways.

The 1st sub-section of section 45 says :

An annual report of their proceedings, and an account of all moneys received and expended during the preceding year. Such annual report shall be laid before both houses of Parliament in the month of January in each year if Parliament be then sitting, otherwise within one month after the commencement of the session next ensuing.

Section 53 says :

The commissioners may make by-laws for all or any of the subjects or matters hereinafter mentioned, and may impose penalties not exceeding twenty pounds, upon any person committing a breach of any of such by-laws.

There is also section 54

(I) No such by-law shall have any force or effect unless the same has been approved by the Governor, and has been published for at least three clear days in the *Gazette*.

(II) The commissioners shall cause the substance of such by-laws, and a list of any tolls, fares and charges from time to time imposed thereby, to be painted upon or to be printed and affixed to boards in large and legible characters, and shall cause such boards to be exhibited in some conspicuous place in or on every station, pier, jetty, wharf or other place where such tolls, fares or charges, or any of them are payable, and according to the nature and character of such by-laws respectively, so as to give public notice thereof ; and shall cause every such board from time to time to be renewed if destroyed or defaced.

The Attorney-General's declaration is perfectly clear, and I am sure that he will not now attempt to depart from it. His opinions are so clearly expressed that there can be no mistake as to their meaning. The Railways Act, on the other hand is also so clear that it must appear to any unbiassed mind that the Attorney-General's declaration is not in strict keeping with the provisions of that act. I should like the hon. gentleman to explain in what way this great department of state has been converted into a private concern so far as the Crown law officers are concerned. What contention can the hon. gentleman advance to show that this great Department of Railways, which is governed by a set of commissioners under a corporate seal as a matter of convenience in the administration of the act, carrying out the great works for which Parliament votes money from year to year, which commissioners are bound under the Railways Act to forward their receipts to the consolidated revenue — showing that there is no separate control over the department, but that it has been put into their hands as a matter of

convenience — has been made a private concern ? It is as much a state department as is any other department under the Government of this colony. It is clear that the Department of Railways is entirely the creature of Parliament, that it lives through and has its existence from Parliament, and that its revenue is inseparable from the general revenue of the country. How then can it possibly be converted into a private concern admitting of Crown law officers appearing against it in their professional capacities from the mere fact that it does not do its business through the Crown law officers ? Is it possible to conceive from the information laid before the House, that by the mere appointment of a private solicitor to this great department of the state it has been converted into a private concern ? Is it possible to conceive that because the railway commissioners, as a matter of convenience, as set forth by the Attorney-General, and because they would be able to carry out their trust in a better manner, appointed a solicitor of their own instead of transacting their business through the Crown law offices, it can be said that the department is swept entirely away from the operation of the ordinary obligations of a responsible Minister of the Crown ? It is beyond the comprehension of any intelligent man. Nor is the contention based on the facts of the case. I cannot conceive how it is possible under any circumstances, under any technical defence, under any twisting and contorting of words, to transform this great department, which has hitherto done its legal business with the Crown law officers, and which has always been recognised as a state department, just simply because it happens to do its business with a private solicitor, into a private concern. I say that the Attorney-General is on most unsafe ground when he makes that contention. But supposing his contention were correct, does the House not see to what length it might go ? What an easy matter it would be to appoint a solicitor to the Treasury, and by that means enable the Crown law officers to appear against the Treasury in their professional capacity. The same thing would apply to the other departments of the state. The hon. gentleman's contention is altogether untenable. Further than that, the House will recognise at once the great



danger to which the country will be exposed, and how the public interest might be completely shattered, if the hon. gentleman's contention were accepted in fact. It must be acknowledged that it has been accepted in fact, because the hon. gentleman has made a declaration that, under certain circumstances, he considers it within his right to accept a brief against the railway commissioners on the grounds I have already mentioned. Here let me refer to the fact—I have it from hearsay, and I shall not attempt to get behind your ruling, sir—that the Minister of Justice did accept a brief against the railway commissioners. It is reported in to-day's newspapers that in the cases of *Cranney versus* the railway commissioners, and *Forsyth versus* the railway commissioners, the Minister of Justice appeared against the commissioners, and in one case obtained a verdict. Therefore we know, as a matter of fact, that it has been the practice of the law officers of the Crown to accept briefs against the Railway Department, and those gentlemen hold that it is their right and their duty to do so. I stand on the floor of the House to-night to assert the contrary. I say they have no such right. It is a most improper thing, and a thing which the people of this country will never tolerate. And it comes from the Attorney-General and the Minister of Justice with a weight tenfold heavier than it could possibly come from any ordinary men in the country, because those gentlemen occupy such a prominent position. The Attorney-General, it is well known, is one of the most intelligent men in the country. He is blessed with the advantage of a university education, and he is the grand juror of the country. His colleague is endowed with similar gifts. He occupies a prominent position. He is the leader of the Government in the Legislative Council, and I believe is a member of the senate of the University. Therefore, we have two of the highest authorities in the country giving a deliberate opinion before Parliament that it is a right and proper thing for the law officers of the Crown to take private practice against the Railway Department. I am here to assert that it is not, and I will go further, and say that the country will never tolerate such a thing; if it does the evil will grow into an abuse of a magnitude that cannot be imagined at the present time. We

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must accept the statement of the Attorney-General in good faith, because he is only carrying out what he believes to be right. It is for Parliament to say whether he is right or wrong in the matter, and they will now have an opportunity of doing so. It must appear to any unbiassed mind that for the law officers of the Crown to assume an attitude of that kind would be to place themselves in an extraordinary position. They would be placed in this position: on the one hand they would be Cabinet ministers sworn to protect the interests of the country at all hazards, and to defend the revenue from all inroads; and, on the other hand, by practising their profession against the Railway Department they would be assisting those who were attacking the consolidated revenue. Consequently, how could these gentlemen faithfully serve both sides? On the one hand, they would endeavour to the utmost of their ability to extract every farthing they could from the Treasury of the country; and, on the other hand, it would be their duty sitting in Cabinet to consult with their colleagues as to placing on the estimates the amount that would be required in the event of an adverse verdict against the Government. The Attorney-General has already said that in the event of an action of the kind referred to, and a verdict being obtained against the Railway Department, the Colonial Treasurer would have to place the amount on the estimates; but as a minister of the Crown sworn to protect the interests of the country it should be his bounden duty to see that not a shilling was placed upon the estimates more than was absolutely necessary. It is all very well to say that the right of private practice on the part of the law officers of the Crown is no danger to the state at the hands of the gentlemen who at present occupy those positions, but that is not the point at the present time. The point is that these gentlemen have conceived it to be their duty to take up the position they have done in respect to a department of the Government, and are determined to act upon it in the future. If that is a sound ground, let us consider for a moment what might happen. Let us imagine a weak government coming into power under very great difficulties, and immediately finding themselves attacked by a number of sharks

such as exist in this and every other country, desirous of getting at the revenue of the state. The first thing such persons would have to do would be to secure the services of the law officers of the Crown, and that step gained would be a great advantage. They would naturally seek to engage the law officers of the Crown, believing they would be of most use to them; if they thought they were incompetent men whose services would be of little value, they would not retain them. The law officers of the Crown having been retained, they are supposed to go on with the case as long as it does not conflict with their duty to the Crown. They would proceed with the case in the Supreme Court, and use their utmost endeavours to get a verdict against the Railway Department by means of any point of law, whether it was right or wrong. Now, is that an honest position for the Attorney-General and his colleague to be placed in? Prominent barristers, occupying the position of Crown law officers, appearing in cases before juries, are more likely to secure verdicts than ordinary members of the bar, for the simple reason that the jury would argue in this way: They would say, "Here is an action against a department of the state, and we find two ministers of the Crown appearing to prosecute the claim against the Government; therefore there must be something in it. It must be right, otherwise we should not find these gentlemen appearing to uphold the claim." In this way juries are likely to be unduly influenced. The matter must be looked at from every point of view, and there is a graver objection still. What has happened in the past may happen again in the future, and it is possible that a great law case may arise in which the railway administration is concerned, and the Attorney-General of the day and the Minister of Justice may both be retained to support the claim against the railway commissioners, which may be for an enormous sum.

MR. SPEAKER: The hon. member without mentioning names is now debating a case which has already been debated in the House when the names were given.

MR. C. A. LEE: I was referring to what might happen in the future and was anxious to avoid any direct reference to a former debate. At all events, according to the declaration laid down by the

Attorney-General, in the event of a claim being made against a department of the state, be the amount great or small, this might happen: If at the time there was a dishonest attorney-general in office what an easy matter it would be for him to bring pressure to bear upon the railway commissioners! It is apparent at once how great is the difficulty of a gentleman occupying that dual position. His action as a member of the Government cannot be dissociated from his private capacity. Therefore, it is quite within the bounds of reason to suppose that members of the Cabinet so situated would be able to exercise pressure upon the railway commissioners, and thus obtain undue amounts for their clients which the country would have to pay. I cannot see that there is any tenable ground for the position taken up by the Attorney-General and his colleague, and as the hon. gentlemen still hold that they are right we shall not be doing our duty to the country unless we give an emphatic opinion upon the matter. We have it now before us, and we must deal with it. The action of the hon. gentlemen is either right or wrong. Those who think it is a right and proper thing for ministers of the Crown belonging to the legal profession to practise in the law courts against the Railway Department will vote against my motion, and those who think the practice is wrong and should be put a stop to should vote for the motion. I have kept myself very closely to this subject. I have treated it as fairly as I possibly could. I have made the case no stronger than was necessary; but I think I have shown beyond all possibility of doubt that so long as ministers of the Crown are permitted to practise their profession in opposition to the Railway Department the best interests of the country are at stake. There are not 5 per cent. of the people who will uphold these learned gentlemen in their contention. The country from one end to the other is ringing with indignation on this question, and the declaration of the Attorney-General has been received by the country with the greatest possible regret. I am sure it was received with great regret by the House. Whether I am doing the Attorney-General an injustice or not, I cannot help thinking he has not taken the dignified stand in this matter that he should have taken. His

position is such that he should never have allowed it to be assailed for one moment. I raised the point without premeditation, sincerely believing it to be my duty to do so. I believed there was a great principle at stake, and that the hon. gentleman's office and almost his honor were involved. It is a matter of extreme regret that he should have allowed the matter to go on so long. So far as I am concerned, I think I have put myself right with the country. I have shown the country that I was desirous of getting at it at the earliest possible moment, and if it has been dropped it has been entirely through the influence of those over whom I have no control.

Mr. BARTON (East Sydney), Attorney-General [5:33]: I think, without any spirit of discourtesy, I may say that there was no necessity for the hon. member to have made himself the mouthpiece of the country in this matter. We all know that the hon. member has occupied hitherto, and it is not to his discredit, a somewhat modest and silent position in this House, and the fact, therefore, that he has come out of his shell on this occasion for the purpose of raising this charge against the law officers of the Crown, is not a matter which in itself is against the credit of the hon. member in any way.

An HON. MEMBER: They kept him quiet!

Mr. BARTON: I do not know whether they kept him quiet or not; but although the fact of the emergence from his hitherto quiet position may excite a great deal of speculation on the part of hon. members of this House, and on the part of persons outside, it is not my intention to enter into an investigation of that matter, or to endeavour to give any reason why it has occurred. All I have to do—and it will be admitted in this House that I generally confine myself to that—is to deal with the arguments which are raised, and the position which the hon. member puts forward before this House. I have not very much to add to what I said on Friday last with reference to this matter, because whether any hon. member differs from me or not in the position I took up, that is a matter I cannot help, for in taking up that position I stated to the House what faithfully represents the views and ideas with which I accepted my position in this action. As far as any vote which may be carried by

this House is concerned, I say, with every respect to the House, that the result of that vote cannot affect the matter which I have to answer, because I have to answer to my conscience, and to no other master, and answering to my conscience, as I shall, whatever I may think about any vote any hon. member gives, I shall not think that when conscience answers that I am right, the House can also be right if it says what is contrary to my conscience. I say that with all respect to this House, but I say that a man is no true man, and not being a true man he cannot be a true representative, if he acknowledges any other master than the conscience which God implanted in his breast. For me I am perfectly satisfied that according to the education which I have received, according to the traditions of the profession—which, notwithstanding the scorn with which the mere ignorant treat it, is one of the most honorable professions in this world—I say according to the traditions of the profession to which I count it an honor to belong, in spite of the statements of those who so asperse it, I have acted under what I regard as the obligations of the members of that profession, and having so acted, and having acquitted myself of any attempt to endanger or injure the public interests, I say that my conscience tells me that I stand free, and, satisfied with that, I care for nothing else. It might have been fairer, perhaps, to us if the hon. member had not taken the course which he has now done, and I must admit that the hon. member has been under some difficulty in this matter. It would have satisfied me if the motion with which he wished to deal could have been brought forward at any moment, and in the earliest possible way, because it will appeal to any hon. member that it cannot be a satisfactory thing to me who am accused, and against whom the first accusation arose in my absence—it cannot be a satisfactory thing for me to have to wait for a week or two to answer a matter which I should have preferred to answer at once. Will any hon. member under any circumstances in this world, having an accusation brought against him, which in the minds of those who are not well informed affects his honor, but which in the minds of those who know does not affect his honor at all—can it appeal otherwise than to the com-

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mon-sense of hon. members of this House that a member so affected would be anxious to have the matter settled at once? And if the hon. member, instead of bringing forward a motion of adjournment, could have got the matter brought forward, I tell him face to face that I should have been better pleased, and I think he will have seen from what I am reported to have said in the press that I expressed the opinion that the sooner this matter is decided the better. I regret that the matter has been brought forward in this way, because if the hon. member were by any chance to succeed in carrying this motion, he and those who think with him—and of course we must presume that they are actuated by an honest desire to serve the country—might claim that they had succeeded in inflicting a defeat on the Government, whereas those who are affected in this matter—the Minister of Justice and myself—know that this matter ought to be confined in its scope to them; and therefore a motion the result of which may take the control of business out of the hands of the Government is not a fair representation of the matter, because the Minister of Justice and I stand here—I am sure I represent my colleague in what I say—we stand before the public ready to accept the consequence of our acts, and we certainly will not consent to anything which we may have done being used to the discredit or disparagement of those colleagues with whom we have been associated for two years. However, I must accept the position, as the hon. member has brought forward the matter in this way. I do not blame him; I only say it is an unfortunate thing that the matter occupies this position, because if by any chance the hon. member carried the motion he would implicate and involve the whole Cabinet in this matter, and I say distinctly that the action taken by the Minister of Justice and myself was taken as professional men entirely in the practice of our profession, and without implicating or in any sense involving the opinions of any member of the Cabinet. I wish to be distinct and emphatic on that point. Some questions have been asked this evening. I tell the House that this matter has not engaged the attention of the Cabinet for the plain and simple reason that the course taken by the Minister of Justice and myself has been taken in our capacity as barristers, and it did not enter

into the ideas or opinions of any member of the Cabinet to review that course, because the laws and rules of the profession not only left it open to us, but we conceived that the principles of that profession compelled the course we took. A great deal has been said about the effect of the course taken by a minister under circumstances of this kind. A tremendous endeavour has been made—an endeavour which seems to me to be fairly characterised as a very unsuccessful one, because it involves so much twisting and wriggling—to show that by the acceptance of a retainer of this kind in a case between the railway commissioners and an ordinary citizen, the public revenue of the country is so far involved that the assistance of the Attorney-General or the Minister of Justice might be necessary in the last resort for the purpose of advising the Cabinet. The circumstances repudiate any position of that kind, and show that that position is utterly untenable. The railway commissioners have from a time anterior to the acceptance of office by this Cabinet severed themselves from the Crown Law Department. They have insisted on having their own solicitor, not only so, but they have desired to retain temporarily in their employment the solicitor who had been acting for them in certain matters, and who is in no sense the servant of the public. The endeavour was, of course, in the first instance, to make out that the Attorney-General—I do not apply the contention to the Minister of Justice, because that would be too absurd—is under some implied retainer to this department. How can the Attorney-General be under any implied retainer to Mr. Robert Smith? How absurd it is to suppose that Mr. Robert Smith, being solicitor of the commissioners, the Attorney-General is his servant for the purposes of their law business, and that he is under an implied retainer to Mr. Smith.

AN HON. MEMBER: That is special pleading!

MR. BARTON: It is not, it is a fact. I can understand such a remark being made by those who wish to go to a judgment without consideration, and who prefer to put the prejudices of all their lives before the teachings of education. I can understand the remark in that way, but I cannot understand it in any other way. The only consideration upon which a member of the

bar can be prevented from accepting a retainer is that he is under an implied retainer. The Attorney-General cannot be considered to be under an implied retainer to Mr. Robert Smith or anybody else. The reason why the Attorney-General is not supposed to accept a brief against the Crown is that he is under an implied retainer to the Crown Law Department. Here is a department which abandons that idea. If the Crown Law Department is cut off, absolutely severed, and prevented from tendering its assistance to the railway commissioners, then the Attorney-General is under no implied retainer to the Railway Department, or to any portion of the public which cuts itself off in that way. That is my view, and I honestly hold that view. If there is any hon. member who differs from me why let him differ. The whole way is open to differences of opinion, but do not let me be called names, and do not let any one say, as the hon. member did—I forget the exact words, but I think he described it as a ring of indignation throughout the country; because I believe that if the country were better informed by those who ought to inform the country correctly, the country would not ring with indignation, but would understand the matter. The hon. member urged that the public revenue might, in some way, be brought into question in this matter. I say that that is perfectly impossible, and for this reason. The Railway Department have their own solicitors and their own counsel. They act independently of the advice of the Crown law officers. They do not apply to the Crown Law Department. When a difficulty arises, they never apply to the Crown Solicitor for advice, and the Crown Solicitor cannot send any case in which they are concerned on to the Attorney-General, because they never send the case to the Crown Solicitor. I assure the House as a matter of fact, that the Crown Law Department is wholly ignorant of what goes on in matters of law with reference to the railway commissioners, and the reason is clear. If the Crown law officers asked for information, and desired to interfere, the railway commissioners would say, "You cannot interfere, because we conduct our law business for ourselves." Things are in this position: Not only do the railway commissioners stand aloof from the Crown Law Department, but they are entitled to

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act independently of it. To put it in other words, in any case that arises, the railway commissioners not only are entitled to consult their own solicitor, and through him their own counsel, and they have usually done so by a general retainer; but there is this peculiarity: that they can arrive at their own determination. If their determination in a matter of law is conceived by the Crown Law Department to be wrong—and the only way in which the Crown Law Department could get at that would be by reading it in the newspapers—an expression of opinion by the Crown Law Department would not affect the railway commissioners in any way. They are entitled to say, "We have our legal advisers, and having them, we trust to their advice, and not to the advice of the Crown Law Department. Therefore, we do not care what you say." That is not only what they can do, but what they do. That is what has been going on day by day, and for years. I put it to any hon. member to say whether, things being in that position, there is any justification for the argument that the Attorney-General, or the Minister of Justice, or any member of the bar, whoever he may be, is under any implied retainer to these gentlemen; or whether there can be anything in the shape of sense or justice binding him to them in carrying out their duties. The Attorney-General might read something in the papers, and say, "I totally disagree with this. This view of the law is wrong, and it will land the country in a most serious difficulty." That, as far as the railway commissioners are concerned, is mere empty breath. He might say that over and over again, and the Colonial Treasurer might receive an intimation from him and send it on to the railway commissioners, and even then the railway commissioners, under the administration of the Railways Act, are entitled to say, "We care nothing for the opinion of your attorney-general. We accept the opinion of our own legal advisers."

Mr. RAE: That shows it is a bad act!

Mr. BARTON: There are defects in the act I admit; but I am explaining the position of affairs under which I have taken certain action. If I, as Attorney-General, were satisfied that a wrong course was being taken by the railway commissioners, any representation that I might make on that subject would only be entitled

to so much weight as the railway commissioners might attach to my opinion as an experienced public man, and no more. They are entitled to turn round and say, "We care nothing for your opinion, and we shall do what we like." Now, that is what is going on from day to day. I do not blame the commissioners. I wish the House to be thoroughly seized with that, because it does away with a great many difficulties that might be raised. If hon. members see that, they will see that the Attorney-General is, as far as this department is concerned, entirely a stranger. Suppose an action goes to trial, whether the Attorney-General is in that action or not—whether the Attorney-General be out of it or in it—does not matter. That action has certain results. If the person suing the commissioners is defeated there is an end of it; he has to pay the costs. If, on the other hand, he succeeds in his action that action may be continued by the railway commissioners applying for a new trial, and they may carry the matter to the Privy Council. In order to arrive at that result they consult their own solicitor and their own counsel, and any representation made by the Attorney-General, whether he is in the action or not, could not affect the railway commissioners one iota. Supposing they get a new trial, and they may go as far as the Privy Council, in every step they consult their own solicitor, and if they succeed there is the same result: the adverse persons pay the costs. If they are defeated then all the legal difficulties are cleared away. If they fail at every point there is just one thing remaining—the payment of damages in the case. Once a verdict is given against the Crown, the result being execution against the government property if the verdict is not satisfied, there is no matter for a cabinet consultation. Whenever a verdict is given against the Government the Government immediately pays it. How can it engage the Cabinet's consideration? The residuum left after the proceedings is the verdict against the commissioners, and the Government have nothing to do but to pay that verdict. They may put the amount on the estimates or pay it out of loan. It may be payable out of loan funds already awarded to the railway commissioners. It goes as a matter that has been provided for. To say that the Attorney-General

or the Minister of Justice or any member of the Government is concerned as to the way in which that money is to be found is absurd for this reason: that if it is not provided for it must go on the estimates. If it is a verdict attachable to any loan fund it is payable out of that loan fund and no question of law arises out of that.

Mr. J. H. YOUNG: —————

Mr. BARTON: I have said this already that if there is an appeal, if there is a new trial motion made by the railway commissioners, they go to their own solicitor, and that solicitor has the matter argued by their own counsel. The Attorney-General has nothing whatever to do with it, and cannot interfere in any way.

Mr. RAE: Supposing the Attorney-General were retained by the railway commissioners to act for them would he be entitled to the usual fees the same as an outsider?

Mr. BARTON: So far as the practice has gone, there is no instance of the Attorney-General having received a brief from the railway commissioners, so that I am unable to answer the hon. member; but I will say this: that it is a scandal, to my view, in the administration of the public departments that if the thing were true that the Railway Department is a department of the Crown, and therefore entitled to the assistance of the Attorney-General upon the payment of the ordinary fees, it is a scandal if we think that the Crown law officers are the best law advisers of the Crown, that the commissioners do not take advantage of their assistance; but I have nothing more to say about that, because I have nothing to say to that except as it affects my private practice. The matter is a delicate one. I wish the House to understand clearly that so far as the Railway Department is concerned, it is idle to say that the Attorney-General can interfere with the affairs of that department; it is idle to say that he is an officer of that department, or that his assistance is due to that department, and as far as an action proceeds against the railway commissioners and results against them, it is equally idle to say that the Cabinet or the Attorney-General can prevent what must be the necessary consequences of a defeat in the action, that is, the right of a person to recover the verdict he has obtained, even if he has to issue execution. I say that

upon all these grounds it is idle to contend—as somebody has said somewhere in the press—that he intends to take a certain course unless the Attorney-General unequivocally climbs down from a certain position. I dare say everybody knows whom I mean when I make that quotation. I think that the hon. gentleman who made use of that utterance knew enough to know that the Attorney-General is not in the habit of climbing down from his position, and, at any rate, whatever action he takes he takes upon consideration and conscientiously, and whether he is right or wrong he relies entirely upon the support of his reason and conscience. I have, therefore, no more answer to make of that kind than to say that it was quite evident, from what we saw a little while ago, that whether the Attorney-General unequivocally climbed down or not there was a certain gentleman quite willing to go against the Attorney-General. I need not mention his name. I ask for no clemency from this House. I can ask for justice from it, and I can say that I have put this case properly before hon. members in the way I stated it before, and I will say this also that any results of the verdict of the House will not affect me so long as I have the approval of that one monitor whose utterances alone I regard. I do say this: that I regret that under these circumstances the position of the whole Ministry should be called in question with reference to a matter that affects two of their colleagues who have acted absolutely on their own responsibility. I desire to clear my colleagues of every responsibility in this matter. The responsibility is not theirs, it is mine. The hon. member who has moved the motion will know whether it is a responsibility that properly attaches to the Minister of Justice. Any one who knows that gentleman will know whether he is an honorable man, whether he is a man of integrity, a man of courage and fearlessness equal to that of any man in this House or out of it; and if any man can call himself the equal of the Minister of Justice he can in no way call himself his superior. There is no man under any circumstances who can be more trusted to come to a decision where his personal honor is affected which will be worthy of a statesman, a citizen, and a good Christian. The Minister of Justice is impeached in this motion. Where his name was used

a little while ago it is now diluted into the form “other ministers of the Crown.” I want to know from the House what warrant the hon. member has for bringing the Minister of Justice into this matter, because whatever position I stand in I am alone answerable as Attorney-General, and I say the Minister of Justice is wrongly impeached here; not only wrongly impeached, as neither of us is rightly impeached, but because there can be no consideration whatever which would justify the hon. member opposite (no doubt he has acted in good faith) in dragging the Minister of Justice into this motion. That hon. gentleman is not concerned in any respect whatever as a law officer of the Crown. His office has as often been held by laymen as by lawyers. The Minister of Justice can have no concern in any action against the Crown, because we know that when an action goes against the Crown the verdict is paid without demur; and when an action against the Crown is defeated the result of it in the payment of costs falls on the opposite party; but why the Minister of Justice should have been dragged into this matter is past my comprehension. I do not claim a defeat of this motion on that ground; but it is enough to rouse up an investigation, and an inquiring spirit in the members of this House, as to why the hon. member should have dragged the Minister of Justice into this matter when there was here a minister perfectly prepared to be impeached alone, and to stand the brunt of the whole of this business, when the Minister of Justice could not be properly supposed to be dealt with for the same reasons and on the same grounds. I have little more to say except this: that I have acted in this matter as I have always acted in accordance with the principle guiding a member of the bar, that when there is no obligation between the position assigned to him by retainer and any position which he already occupies, he is bound to accept that retainer, even if it is a retainer which he dislikes. There are hon. members of the other branch of the profession in this House, and they know this, that it occurs to them over and over again in their practice, in meeting barristers about cases to come into court, that when they offer retainers to those barristers, there are frequently cases in which the barrister expresses the opinion that it is not the

[*Mr. Barton.*

class of case which he cares to take, or that there is a reason against his taking it, and in either case the barrister expresses his disinclination to take that retainer. I will be borne out by members of the profession in saying that these are matters which are simply put forward by barristers, not as an allegation that they cannot take the retainer, but simply that they would rather that it was not offered to them. I have occupied that position in this case, and I accepted the retainer simply because it was pointed out to me that it was my duty to take it. That duty was not only pointed out by those who offered the advice, but it became clear on consultation with eminent members of the bar. If I am wrong I am wrong. If I have erred I have erred from a defect of judgment, and not of honor; but the attempt of this motion is to cover with infamy and dishonor two men—although I am one of them I say it—who can stand up before this country and say that there has never been an occasion on which their judgment, their reason, or any other circumstances, taught them to do a thing that was mean and was not upright. The result of this motion, which hon. members wish to see carried, would be to place on the records of this House a stigma upon two members of the Government. I do know why it happens that mention is made of only one of them. I do not know whether hon. members opposite know. I do not know why mention is made of me, but I am fortunately in a position in which I can say this: That so far as this motion is a reflection on my honor it is a disgrace to any member of this House making it. I stand here proudly to say that. I am not here to make any appeal to this House. I decline to make any such appeal. I am sustained in this matter in my own conscience. This is an attempt, with the knowledge that there must be an appeal to the country before long, to brand not this Government but two members of it as men who would be guilty of something wrong and crooked. If I am bound to say it I must say it. I will not say that the attempt to brand us in this way is made for party purposes, but I cannot acquit any hon. member of not knowing the obvious effect of the motion, if carried. A motion brought before the House under these circumstances—I say nothing about the position of the

Minister of Justice—is one which I have a right to ask this House to reject, because the whole tenor and intention is not only to cast a stigma on me and the Minister of Justice, but it will cause to rejoice certain persons who, while envious of our characters, are unable to emulate them. I ask no favour from this House. I think I am entitled to characterise the mover of the motion and the motion itself in much stronger terms than I have employed; but I refrain from doing so, and I now simply ask the judgment of the House.

[*Mr. Speaker left the chair at 6·5 p.m. The House resumed at 7·5 p.m.*]

Mr. REID (East Sydney) [7·5]: The remark made by the Attorney-General as to the circumstances under which the hon. member for Tenterfield took the step which he did to-night is one with which I entirely concur; but I would remind the Attorney-General of what is notorious to the whole country—that the hon. member has had to cope with very great and unusual difficulties, and I think he must have the sympathy of every hon. member in this House in having at last an opportunity to bring this subject forward. As our standing orders and rules are now framed it is exceedingly difficult for any private member to take the sense of this House on any matter whatever, and it becomes doubly so when an hon. member is met with the tactics used against the hon. member for Tenterfield, and when the Attorney-General resents as a wrong any attempt to prevent the ventilation of this very important matter he must have forgotten that when the hon. member for Tenterfield rose in his place to-night to speak the first man who endeavoured to shut his mouth was the Premier of this country. In a matter affecting, I will not say the Government—because I do not take the view the Attorney-General seemed anxious to impress on the House—in a matter not directly affecting the Government, but in a matter affecting an expression of opinion on the part of the Attorney-General—in a matter of this sort—it is the colleague of the Attorney-General who stands up to take every point, in order to prevent a discussion on the subject. I say that that was a degrading exhibition in the Parliament of this country. Hitherto governments, as a rule, have been sensitive when any attack affecting any one of their num-



ber is made in the House, yet we find that when an hon. member has struggled through a multitude of difficulties to reach this subject the Premier is the first person to attempt to strangle the utterance of his opinion. The Attorney-General made another remark—a very clever remark, to which we are accustomed in legal advocacy. He endeavoured to deter this House from a free expression of its opinion on the ground that if that opinion were adverse it might cover him with infamy and dishonor. What an utterly ridiculous remark. What is the issue the hon. gentleman has brought before the House? A declaration that the Attorney-General is wrong in his opinion that the Railway Department is not a department of the Government. In what sense can it cover the Attorney-General with infamy if this House practically declares that, in its opinion, the Railway Department is a department of the Government? It is merely a matter of opinion. The Attorney-General stands, privately and publicly, too high in the estimation of all parties in this country to need to raise an issue of that sort. We all give him credit for absolute good faith in the view he takes of his obligations—for absolute good faith and an honorable view of his duty from his standpoint—but let him be Attorney-General or Premier, if he takes up a position which is wrong, and contrary to the public interests, he must be set right. Now, I will set him right out of his own mouth. The hon. gentleman has expressed two opinions on this subject. I prefer the one he expressed when the conduct of the hon. member for Redfern, Mr. Schey, was under the notice of this House in November, 1892. On that occasion the hon. and learned member for Paddington, Mr. Want, was afforded a Government night to condemn the hon. member for Redfern. There was no trouble in getting a Government night to discuss that very important matter. The hon. member for Redfern, as we all know, complained bitterly that a select committee was not appointed to inquire into his charges against the railway commissioners, and what were the reasons which the Attorney-General gave for not consenting to a select committee and for appointing a royal commission.

He asked for a select committee in the first place, and it was explained to him that a select committee was not the proper form of inquiry

[*Mr. Reid.*

in a matter of that kind. It does not follow that a select committee was the proper form of inquiry into matters concerning the administration of a Government department, because it is an universally admitted axiom that the granting of a select committee to inquire into a Government department, unless under special circumstances, involves a censure on the Government and on the department. Therefore you cannot grant a select committee in a case of that kind, but you can grant an impartial inquiry.

So when the hon. member for Redfern was at stake this was a Government department, and it was impossible to appoint a select committee because it was a Government department. I prefer the opinion expressed by the Attorney-General on that occasion. I shall not waste the brief period of time allowed me by arguing the point. It is too notoriously the fact. I quite admit that the Attorney-General takes quite a different view. But, as I have said, I think the view he first expressed was the right one. Now let us see what the Attorney-General says as to there being no danger of conflict between his duty to the public and his professional position. He seems to think that he was under an obligation to accept this retainer. As a member of the same profession, I scout that idea. What is the origin of the rule?—that we should not favour one private litigant against another; but when we assume a public position we take up new duties, and we must not allow our professional interests to conflict with public duties. When I was asked to take a retainer for the railway commissioners I lost no time in bluntly refusing to take it. Why? Because I felt that a matter might arise in this House affecting those gentlemen, and I declined to be put in the position of taking a brief from them. I have therefore given the public my view of duty in the matter at my own expense. The next thing I have to say is this: The Attorney-General said, "How could this bring me into conflict with my public duty?" Do we forget the other night? When an hon. member rose in this very case which has been referred to, where was the Attorney-General? When the hon. member for West Macquarie demanded that Mr. Robert Smith should be taken out of the case, what was the position of the Attorney-General? He could not speak because he was counsel for a certain set of plaintiffs, and he is also a member of the Cabinet.

Mr. KIDD: He was ill in bed!

Mr. REID : I contend that in the case of large claims against them the commissioners have a perfect right to appeal to the Cabinet for advice. They have a perfect right to appeal to the law officers of the Crown for advice. The hon. member said with great indignation that he had no implied retainer with the railway commissioners. I agree with him; but I tell him as Attorney-General he has an implied retainer from the public of this country. That is his position. Let me give the views of the Premier on this subject. When the hon. and learned member for South Sydney, Mr. Wise, was Attorney-General, and took a brief for the railway commissioners, the Premier moved a motion in this House on the subject. The hon. gentleman, then plain Mr. Dibbs, moved :

(1.) That, in the opinion of this House, the practice of the Government paying counsel's fees to the Attorney-General, in addition to the salary provided in the schedule of the Constitution Act, is fraught with danger, and, being contrary to the spirit of the Constitution, ought to be discontinued forthwith.

(2.) That the foregoing resolution be communicated by address to his Excellency the Governor.

The hon. gentleman referred to a case in which Mr. Wise took a brief for the commissioners, who were a corporation sole in 1887, just as they are to-day. What did the hon. gentleman say about it ?

The Attorney-General has a seat in the Cabinet, and questions of litigation come before it at almost every sitting. Surely a gentleman who is to profit by that litigation is not a fit and proper person to advise the Government as to whether they shall or shall not embark in it. It is immoral and wrong, and I am sure the Government cannot justify the taking up of such a position.

Now, what did the Attorney-General say ? He said, "I have nothing to do with this case except as regards negotiations for a settlement." What a position for the Attorney-General to be in ! That is the most delicate point in a case of this sort. When men have a bad case they want to go to arbitration. They want to settle it on some other ground. In this particular case the railway commissioners have the Attorney-General of the country against them in negotiations affecting the country to the extent of hundreds of thousands of pounds. The Attorney-General should rather be in this position : that when such overtures were made to the commissioners

by other persons they should be in a position to go to him and ask his advice in the public interest. In this instance his opinion belonged to the enemies of the public. I do not hesitate to say that there is in this matter a plain issue before the people of this country. It is a question of more importance than it seems to have. Everyone of us knows that the Minister of Justice and the Attorney-General are men of the highest standing. I have known them from boyhood ; but as a public man I do not allow my personal friendships to close my mouth, and it would be a bad thing for the people of this country when a law officer of the Crown such as the Attorney-General can be retained by those who are fighting against the public. It adds a great weight to the case of the plaintiff, or defendant as the case may be, that such high and distinguished men should be their counsel, and when distinguished lawyers become high and distinguished public men their first duty is to the public of this country. If they cannot earn a living without taking briefs against the public of the country they should resign their public positions. That is my view in a few words as to this case. The Attorney-General has made reference to me for my expression of opinion in a newspaper. I say again that I had great hopes that the Attorney-General would frankly admit that however honest and honorable his opinion, he found on reflection it was an opinion he could not seriously maintain.

Mr. SCOTT : The hon. gentleman mentioned no names !

Mr. REID : I took the hon. gentleman to refer to me because I had used the expression referred to. The Attorney-General, instead of changing his opinion as he might well do on reflection, comes before the House and the country and says, "The attitude I have taken up is right." It will be for the House to say if it agrees with the hon. gentleman or not. It is not often that members of this House are asked to give a straight vote or can be compelled to do so ; but on this occasion they will have to give a straight vote on the issue of the opinion of the Attorney-General and the opinion of this House. So far as I am concerned, I regret very much that the Attorney-General has not been in his place during the time I had occasion to refer to him. I repudiate the complexion he puts

on this motion as a matter affecting his personal honor. If it affected his personal honor, there is not a man in this House who would not vote with the hon. member. But he must not drag this House off the track by such appeals. The hon. member for Tenterfield simply impugns the accuracy of his opinion, and points out that such an opinion, if carried out in the practice of the law officers of the Crown, is a danger to the public interest. It is undoubtedly a danger to the public interest. The Attorney-General, the moment he becomes a law officer of the Crown, should be wholly at the service of the public in all legal matters affecting the departments of the state, and there is no department which needs his legal assistance more than the Railway Department. The other departments of the state are child's play compared with that huge department, and if the hon. gentleman compels me to express an opinion on this matter, I will express it most confidently to this effect: I will show that in my opinion the Attorney-General has no right to take briefs against the Railway Department. He admits that if it is a government department he has no right to do so. He admits that his obligation of honor requires that he should not take a brief against a government department. I say this is a government department. He says it is not, but I say it is. We differ in opinion, and the question for the House and the country to decide is, who is right?

Sir GEORGE DIBBS (The Murrumbidgee), Colonial Secretary [7-22]: I only desire to make one or two observations. When the hon. and learned member for South Sydney, Mr. Wise, was Attorney-General in the Parkes Administration I placed a motion on the paper condemning the hon. member. What for? That he marked his own briefs as Attorney-General in the Crown Solicitor's office, and that a gentleman in his position had no right to receive a salary from the Government for performing the work of Attorney-General and to mark his own briefs, and thus estimate the value of his own services. That is what I called the attention of the House to by motion, and I presume that is the reason why the hon. and learned member retired from the Parkes Administration. Notwithstanding the taunt of the hon. member, I have an undoubted right, in common with every hon. member, if I

think the standing orders are infringed, to call the attention of Mr. Speaker to the fact. I did that in the exercise of an undoubted right. But I will tell the hon. member who has just spoken what I have not done. I have not put up the dullest member on my side of the House to move in a matter of this sort.

HON. MEMBERS: Shame!

Sir GEORGE DIBBS: Let the shame rest on those who use the word.

Mr. REID: He jumped up before I knew anything about it!

Sir GEORGE DIBBS: The leader of the Opposition takes advantage of the hon. member for Tenterfield for the purpose of attacking, not the Attorney-General, but the Government. The hon. gentleman said that if the Attorney-General had come down to the House and admitted that he had done wrong no objection could have been taken to his action. If the Attorney-General had truckled to a course of that kind he would have been unworthy of his position, and I would vote against him. What is involved in this motion is practically an attack on the Railway Department. The hon. gentleman who introduced the Railways Act will doubtless speak during the debate, and he will point out, I have no doubt, that to attempt to force the railway commissioners into the Crown Law Office would be to destroy the Railways Act. If that is what hon. members opposite have in view, and if they think they can get a certain amount of support by attacking the railway commissioners, they are perfectly welcome to any advantage they may get. As the Attorney-General pointed out, the object of this motion is not to attack that hon. gentleman and his colleague, the Minister of Justice, but to attack the Government, and the Government are perfectly prepared to accept the result of that attack, whatever it may be.

Mr. REID: I rise to make a short explanation. The Premier must have been in the House I am sure, and seen what I am about to explain. The moment the debate on this matter concluded the other day, the hon. member for Tenterfield, who was sitting behind me, jumped up and gave notice of his motion on the spur of the moment. He had not the slightest communication with me when he gave that notice, nor had I the slightest knowledge that he was going to move it.

[*Mr. Reid.*]

Sir HENRY PARKES (St. Leonards) [7-26]: I cannot admit that this motion has the slightest party complexion. I cannot admit that it would be possible for the House to allow this question to pass without an attempt to put on record its deliberate opinion; and I am bound to say that having in many respects much admiration for the ability and character of the Attorney-General the mildest thing that I can express now is my sorrow that he delivered that speech. I think a speech like that of the hon. and learned Attorney-General has a direct tendency to destroy parliamentary government. I am somewhat amazed at the conception which is formed of the position of attorney-general, and more so at the conception that appears to be formed of the duties of a minister of the Crown. Dealing with the smaller thing first, the Attorney-General seemed to think some monstrous inroad upon propriety has been committed by intruding into this motion the conduct of Mr. O'Connor. Why, Mr. O'Connor is a member of this Government, and the question arises whether any member of this Government, be he whom he may, be his profession what it may, or whether he be independent of any profession or not—whether any member of this Government can engage in some lucrative office against the interests of the government he is sworn to defend and support. Without touching the Attorney-General, I deny that any one of the ministers could by any means whatever, in any capacity whatever, engage for a monetary consideration in some duty adverse to the interests of the Government of which he is a member. Such a doctrine as that would go far to destroy the government under which we live. But, coming to the Attorney-General, we ought to consider what the Attorney-General is in England. The Attorney-General in England is never known to be a member of the Cabinet. I do not believe you could find it placed on record when the Attorney-General of England was ever admitted to a cabinet. He is simply the adviser of the Crown. He is not an administrator of the Government in the ordinary sense, but he takes office without a seat in the Cabinet—it was never contemplated that he should have a seat in the Cabinet—as the adviser of the Crown in all matters affecting the government of the people and country. It is laid down plainly

enough in all our books. You will find it in the “*Encyclopædia Britannica*,” laid down as clearly as anywhere else. But we will see what Todd says, in a book which is an admitted authority in this House. He says:

The Attorney-General and the Solicitor-General are the advisers of the Crown in all cases of legal difficulty, including those which arise in the departments of the Privy Council, and of the secretaries of state for foreign and colonial affairs, where the questions are often of a mixed nature, involving points of civil and international law. They also advise in the framing of royal proclamations.

And he goes on to state that in all matters whatever they are the advisers of the Crown. I think I ought to know something of the provisions and intentions of the Railways Act, and I say most unhesitatingly that it was never contemplated for a moment that the Attorney-General should not be called in to give his opinion on any point affecting the conduct or the administration of that act by the commissioners. All through the act itself the principle of responsibility was fully recognised. The commissioners have the power to frame by-laws, but by a separate section of the act those by-laws cannot have any force until they are approved by the Governor with the advice of the Executive Council. In another section the commissioners are authorised to frame regulations distinct from these by-laws, but in like manner those regulations have no force until they are approved by the Governor-in-Council. In the very preamble of the act it is distinctly stated that it has become necessary to separate the management—of what? “The Government railways and tramways”—from the construction of similar works; and for that reason—not to convert them into any private corporation, but to separate the administration, or, in other words, the working of the railways from their construction—the board of commissioners was appointed. This is beyond contradiction, and admits of no other interpretation. The law provides that a minister shall be responsible for the administration of the Railways Act, and that itself implies that the commissioners are in no sense independent of the Government of the day, except so far as their business administration of the railways is concerned.

Sir GEORGE DIBBS: The hon. gentleman omits the fact that the act gave the com-

missioners power to sue and be sued independently of the Government!

Sir HENRY PARKES: That in no way affects the position which they occupy.

Mr. REID: Mr. Goodchap had the same power!

Sir HENRY PARKES: I know he had, and I was just going to point that out. In that respect the act which I carried through Parliament gave no new power. Anybody in such a position as that of the late railway commissioner or of the present commissioners must have that power, or otherwise their office would be a nullity. The mere enactment that there shall be a minister of railways to administer the act puts aside altogether the contention of the Attorney-General that a board of railway commissioners is in any sense other than another government establishment. I ask hon. members to consider for a moment what would be the effect if this serious admission were made. We should have the greatest department in the country, as a money-spending department, and as a department involving the highest interests of the population, placed in a position where the Government would have no control. It was never intended that the Government should have no control, and it is provided that, so far from the commissioners being independent, if certain conduct arises the Government can at any moment suspend any or all of the commissioners; and though it is further provided, and justly so, that they shall not be dismissed until the cause of their suspension is laid before Parliament, still it is quite sufficient that the Government have the power to take the initiatory step towards their removal to show that they are essentially a government department. To admit that a member of this Government, whether he holds office or not, whether he is a barrister or not, can accept a brief against his own Government, would be to admit an absurdity as well as an injustice; and I challenge the Attorney-General to adduce any instance in the whole history of English government where an attorney-general has ever accepted a brief against the Government under which he served. If he cannot do that I think his case is gone, and I trust it is gone, because the interests of the people would not be safe for a single instant if this doctrine which I venture to describe as a monstrous doc-

trine, were once admitted in this Parliament. I said that this case had to me no party complexion; but it has what is of much more importance to me than any party complexion or contention—it is a contention of this kind: that those who are against us are against the institution of which we form part, and if we fail to condemn them, and to put a barrier against a proceeding of this kind for ever afterwards, we shall fail in our duty to the people.

Mr. GARVAN (Eden) [7.38]: That the subject we are called upon to discuss under the garb of a motion of adjournment is difficult in some of its aspects no one can question; but with regard to the general principle involved in it, as to the right of a minister of the Crown to take a brief against his own Government, I think a very general consensus of opinion is against the wisdom of such a course. But while that view is held fairly generally, the succeeding action of the Ministers with regard to whose conduct this motion of adjournment is moved, should receive, I think, the eulogy of the House, and not its condemnation. I do not propose to analyse the fine reasonings of the Attorney-General in vindication of the position he took up; but I take his stronger reason, as evinced by the more forcible action of himself and colleague when the matter was brought under consideration, of giving up their briefs and withdrawing from the position.

AN HON. MEMBER: They backed down!

Mr. BARTON: It is not true to say that I backed down!

Mr. GARVAN: That the law permits the Attorney-General, or any other gentleman who may be a barrister, to take a brief against the Crown, no man in this House can question. Then to begin with the law that permits it is at fault.

Mr. REID: What law?

Mr. GARVAN: There is no law that prevents it, and I am sure if there was any such law, the leader of the Opposition would have spoken of it. The hon. member for St. Leonards has pointed out that the position occupied by the Attorney-General in England is not the same as that occupied by the Attorney-General here. He pointed to that partially in condemnation of ministers, or in justification of this motion. Is the present Government responsible for the position which the Attorney-General occupies here?

[*Sir Henry Parkes.*]

Sir HENRY PARKES: The hon. member clearly misunderstands me. I think I made it quite clear that I referred to the position of the Attorney-General in England to enforce my view that the Attorney-General was bound to advise on all matters affecting the government of the country.

Mr. GARVAN: I took it that the very fact of the Attorney-General not occupying the same position here as he does in England was made a ground of adverse comment against the Attorney-General. I think it is a fair inference. Is this Government, or this Attorney-General, responsible for that state of things? Is not the hon. member for St. Leonards himself more than any ten members of this House responsible for the existing relations between the present Attorney-General and the Government? I do not approve of any minister holding a brief directly or indirectly against the Government of the country; but let me point out how difficult it is to finally settle that question by any expression of opinion of this kind. I hold that the very principle involved of danger to the country by reason of a minister taking a brief against the Crown is equally involved by any other barrister in this House taking a brief against the railway commissioners or the Government. No hon. member has stated that it is not permissible for a member of Parliament being a barrister to take a brief against the Crown, and no one will attempt to advance it; but I will proceed to show on the strongest logical reasons that there are very powerful grounds, in fact more powerful than the case of a minister taking a brief in a member of the Opposition who is a barrister taking a brief against the Crown. I see present an ex-attorney-general, the hon. and learned member for South Sydney, Mr. Wise, and also the hon. and learned member for The Glebe, Mr. Bruce Smith. Both men have gained distinction in their profession. Both of them would hold themselves at liberty at the present moment to take a brief for any plaintiff against the railway commissioners, yet in the turmoil of politics either of them may be Attorney-General to-morrow, advising the Crown. Is that not more full of danger to the country than even the fact that the Attorney-General takes a brief against the railway commissioners? I am not putting an hypo-

thetical case. More than one member of the Opposition has during the past three years taken briefs against the railway commissioners. During the progress of any one of those cases, in which they have been counsel advising the plaintiff, they might be transformed from members of the Opposition to legal advisers of the Crown. What imminent danger there is to the public purse under such circumstances! Hon. members will have to go further to-night, and say that no member of this House who is a barrister is at liberty to take a brief against the railway commissioners or the Crown, in which they may be carrying on proceedings up to a certain point against the commissioners or the Crown, and may then be transferred to the position of advisers to the Crown. That is a logical consequence of the position taken up to-night. During the time the late Government was in office one of its most distinguished members, Sir Julian Salomons, being a member of the Executive Council, was also then, as he is now, the chief counsel to the railway commissioners. He is a member of Parliament, and he takes his brief from the railway commissioners. Now, I put it to this House, is it not contrary to the written records of this House that any barrister should be at liberty to take a brief from the Crown if the commissioners and the Crown are identical, and I hold that in many circumstances they are. I will show how those who are engaged in supporting this motion are acting in direct violation of the principle they are now asking us to respect. I am pointing out that Sir Julian Salomons held a brief from the railway commissioners while he held office as a member of the Executive Council in the Parkes Government. It is now admitted that the railway commissioners and the Government are one and the same; if so, I say it is contrary to the law of Parliament that any minister should hold a brief from the Crown while he is a member of Parliament, and no principle was sounder than that quoted to-night against the Premier, when he referred to the time when the hon. and learned member for South Sydney, Mr. Wise, was Attorney-General, and when he took a brief from his own Crown law officers. That principle, which was condemned then, must be condemned every time the question is raised in this House. But this Government is not specially

responsible: they do not even bear an equal measure of responsibility with that which must be borne by preceding governments. More blame must be attached to defects in the existing law than to any special act on the part of ministers on the present occasion. If the question has to be settled, and sound logical ethics laid down with reference to it, it is the duty of the House and responsible ministers to bring in an amendment of the law which will settle definitely the relations between members of this House and barristers with regard to such actions as they may be at liberty to take, either for or against the railway commissioners. Until that is settled, it is scarcely a fair thing to take advantage now of something that has been done under the existing law, and to propose this form of censure against the Government. I do not say one word against the right of the hon. member for Tenterfield to submit this motion, nor against the tone in which he submitted it; but I say the effect of it is to censure, in a more personal way, the conduct of the Attorney-General and the Minister of Justice than is justifiable under the existing law. If the conduct of these gentlemen is in violation of the law, it should be shown where they have violated the law, but no one has attempted to show that there has been any violation of the law, therefore the motion can only be held to be an impugning of the honor or sense of right and justice of those hon. members rather than condemnation of them for violating any known law of the country. If every hon. member is to be challenged, merely on questions of etiquette, we shall have motions of adjournment every night, and no good will result; but if it is thought desirable to lay down distinctly that ministers of the Crown, or any other members of the House shall take no action one way or the other with regard to claims against the railway commissioners or any government department that should be embodied in the Constitution of the country, and we should not attempt to settle it as we are asked to do to-night by a mere motion for adjournment. A motion for adjournment is not a fit and fair way to bring the matter under discussion. Seeing that the members of the Government have withdrawn from the case, and have returned their briefs, there is no warrant whatever for pressing this motion for ad-

[*Mr. Garvan.*

journment to a conclusion. If they said, "We originally took up this position, and we stand by it now, and we decline to take any other action than to assist this claimant against the Crown to the best of our ability," this House would be fully justified in coming to a conclusion on this motion. But as that is not the state of things there is no warrant for taking this motion any further than the expression of opinion which has been given this evening. I trust that the expression of opinion given to-night will have a good effect in future, and more than that there shall be distinctly laid down at the earliest possible opportunity a law which will guide us in this matter.

Mr. COOK (Hartley) [7-55]: It seems to me that the crux of the whole situation is the consideration whether the Railway Department is or is not part of the government of the country; whether or not it is under the direct supervision of the Government of the country. If the railways were a private concern the Attorney-General would perhaps be, no doubt, justified in the action he has taken in conjunction with his brother minister; but it seems to me, apart from all legal enactments, there is this particular fact, which we cannot get over, that if the Attorney-General and his brother minister could have won this case the Crown would have had to pay the piper. He, as a member of the Government, would have to find the money to pay himself and his brother minister, and he would be trying to win the case, knowing all the while that he would have to pay himself for the action he was taking. That is the broad fact which we cannot get over, and to quibble over legal enactments does not help it the least bit. The Attorney-General, in his speech to-night, was lawyer-like. He had no arguments, and he began straightway to abuse those who differed from him; a more abusive speech he never made in this House. It was utterly unworthy of him, and of an occasion of the kind. He may sneer if he likes at hon. members who are not possessed of his education, and of his legal training and ability, but those hon. members he sneered at will, at any rate, be given credit for having a little bit of common-sense, and in this case common-sense will outweigh a ton of legal quibbling and logical acumen. We have to

deal with other questions to-night. We have to deal with questions of statesmanship and questions that concern the weal and welfare of the state. There are some things, even higher than matters of logic and mere quibbling. There are such things in the world as broad principles of truth and honor and honesty and integrity. The case is very simple. The Attorney-General cannot defend the Government and defend an opponent of the Government at the same time. We have common-sense enough to see that. It takes no legal acumen to perceive a fact of that sort. While he may defend himself upon purely technical grounds we have this broad fact open to the observation of the commonest intellect, that he cannot be both for and against the Government at the same time.

Mr. RAE: But he is!

Mr. COOK: He is; but in doing so in my opinion he puts himself in the position of Mr. Hyde and Dr. Jekyll in Robert Stevenson's book. He tries in one case to defend the Government, but in the other he argues against the Government with all his might and main. As to this involving the fate of the Government, I fail to see how you can separate the Government and their responsibility for the action of these two members. The Government must surely stand by its own individual members; and whilst other members of the Government may not be concerned in the abstract, yet they must take their share of the responsibility for the actions of their two colleagues. The hon. member for Eden said that these two ministers were to be commended for their succeeding action in this matter; that they were to be eulogised because they had thrown up their briefs and backed down; but it seems to me they have not done that at all. The Attorney-General came down here to-night and simply defied the House to do what they liked, and told the House that he had done the correct thing, and that his conscience approved of what he had done. If his action was wrong in the first instance, it must remain wrong now in the face of that declaration. No amount of quibbling like this can get over what the hon. member is charged with. This House arraigns him now on a charge that having on the one hand sworn that he would look after the business of the Government, that he would plead the interests of this coun-

try if need be against all comers, he has on the other hand accepted a brief to try and get heavy damages from the Government he had sworn to uphold. It is no use to talk about honor in this matter. We have to judge of men's honor by their actions, and the question arises whether this action is an honorable action. Is this the action of a man of christianity and honor, and all those other good things that the Attorney-General mentioned? It seems to me that the action is an unjust one. If the action be an unjust one—and I emphasise that point—it is clearly one with which the Minister of Justice should have nothing to do. Either the action is right or wrong. If it is wrong, no amount of legal tinkering will set it right. It is not a question of whether it is right to do such-and-such things among the lawyers. That will not weigh for one moment in a House like this. We have to consider the equity of the case, and not the law points connected with it. That may be all very well in the law courts; this is no place for such discussions. We have to form a judgment from the facts as they are presented to us, and we have the fact that the Attorney-General has acted both for and against the Government at one and the same time. I decline to draw any distinction between the railway commissioners as Government servants and the Government itself, and therefore I shall vote with the hon. member for Tenterfield.

Mr. INGLIS (New England) [8·2]: Although of late we have been accustomed to many startling innovations in political matters, and many high-handed things have been done, it will be conceded, I think, that this question which is now the subject of discussion, came as a startling shock to the moral sense of the community. I should like to ask whether there is one law of honor for the barrister and another for the bricklayer? I thought it was a well understood law, not only from ethical but from political considerations, that if a member of Parliament accepted a contract from the Government for mere mechanical work he forfeited his seat. What is the action of the Attorney-General but a contract for the execution of which he receives money? If a law of honor forbids a lawyer or a carpenter from taking a contract while a member of Parliament, why should not the same law operate against a mem-



ber of the Government, who is bound by a solemn oath to uphold the interests of the Crown?

Mr. CRICK: That would apply equally to the hon. and learned member for Paddington!

Mr. INGLIS: I care not to whom it applies; let it apply all round. All this throwing of dust is an endeavour to confuse the issue, all this sophistical reasoning, ought to be cut clear away, and we should go straight to the proper stand that in the future no cases of the kind should happen. Let us take an illustration. Suppose a gardener had been put by other gardeners around him in a position to watch over their gardens; that gardener thinks he will not commit any breach of the law of honor by taking a hatful of plums, but he is caught in the act, and his co-partners immediately say, "We cannot be robbed, it is a shock to the moral sense of the community; you had better put the plums back." The gardener thereupon puts back the plums, and he says, "I do not think I ought to be punished, because I have put back the plums." That is exactly the position which the Attorney-General and the Minister of Justice take up in this matter. They say, "We took the plums, thinking that no one would say a word about it." Now, however, they are found out they put the plums back, therefore they argue they should not be punished. It is a very homely illustration; but it clearly elucidates the point. The action of these hon. gentlemen is opposed to the law of honor. I do not care whether it is against the law of Parliament or not; it is against the law of honor and against the generally accepted standard of moral rectitude and responsibility. Therefore, I think we are justified in taking up a strong position, and in saying, once for all, that no matter what has been done in the past, we will make our voices heard now, without any fear of our being misunderstood, and we will make it utterly impossible for any minister of the Crown, whether he be a barrister or a bricklayer, to violate the law of honor, and do as a minister of the Crown that which he would not dare to do as a private citizen.

Mr. CRICK (West Macquarie) [8:5]: It seems to me that hon. members do not fully realise the purport of the motion. It is not a direct motion placing on record the opinion of this House that certain

[*Mr. Inglis.*

facts should not prevail, but I take it that if this motion is pressed to a division and carried hon. members must look at the consequences.

An HON. MEMBER: What has that to do with the matter?

Mr. CRICK: It has everything to do with the matter, except in the eyes of designedly short-sighted persons who wish to sit on this side of the House. I am not here to defend the practice complained of. It is not new; the present Attorney-General is not the first Attorney-General who has held a brief against the Government of the country.

An HON. MEMBER: Does the hon. member excuse one thief because another theft is committed?

Mr. CRICK: I do not know about thieving—the hon. member can talk to his companions at his leisure. I say that the action of the Attorney-General is not without precedent. It has been taken before by a gentleman who has held the position of Attorney-General, and who now holds a position in this House.

Mr. WANT: To whom does the hon. member refer?

Mr. CRICK: The hon. and learned member for Paddington, Mr. Want.

Mr. WANT: The hon. member is making a mistake!

Mr. J. F. CULLEN (St. Leonards) [8:7]: I rise to order. This debate has drifted away entirely from the question before the House. If it were not for two motions which appear on the business-paper it might be in order. The question before us has nothing to do with the practice that obtains in this matter. It has to do with the opinion expressed by the Attorney-General as to the relations of the Railway Department with the Crown. There will be no end to the debate if this latitude be allowed to hon. members.

Mr. SPEAKER: The debate must end because the time of hon. members is limited, but it appears to me that the hon. member for West Macquarie is in order. Nearly every hon. member has discussed the same question, because it is raised in the declaration made by the Attorney-General that the Railway Department, as regards the Crown Law Department, has ceased to be a department of the Crown, and that the Attorney-General and other members of

the Cabinet are entitled to act in their professional capacity against the department in the law courts of the colony. I think the hon. member can discuss the question of the Crown law officers appearing in their professional capacity against the Railway Department.

Mr. WANT : I should like to say a word or two before the hon. member for West Macquarie continues his speech. Before the hon. member makes a charge of this kind —

Mr. SPEAKER : The hon. member will have an opportunity to say what he desires to say when the the hon. member for West Macquarie has finished his speech.

Mr. WANT : What the hon. member has said is absolutely incorrect !

Mr. CRICK : I understood that the hon. and learned member held a brief against Mr. Goodchap when he was Commissioner for Railways. That may or may not be correct ; even if it were correct, it would not justify the practice. On the other hand, what I desire to point out is that this motion applies to only two members of the Ministry, whereas if the Government follow the practice which has been heretofore adopted in this House when similar motions have been carried, the motion will affect not only two members of the Cabinet, but the whole ministry. It affects this Parliament, and I think we are quite justified in looking at the consequences if the motion is carried. I apprehend that the Government would not attempt to carry on business if the conduct of that business be taken out of their hands by a vote of this House.

Mr. SPEAKER : I do not think the hon. member is now in order ; he must address his remarks to the notice of motion, and not to its consequences if carried.

Mr. CRICK : I would point out that this motion, if carried, would be regarded as a motion of censure. It is not like an ordinary motion directed against the Government, and I think it would be unduly tying members down to say that they cannot point to the consequences of the motion being carried.

Mr. SPEAKER : I do not think the hon. member can do so. The rule is too well known that on motions of this character, on a definite urgent matter of public importance, the debate must be confined strictly to the subject-matter of the notice.

Mr. CRICK : I think my remarks were on that point, sir. If the motion is carried what will the consequences be? Why is the motion brought forward? Is it not brought forward that it may have some consequences? The last hon. member who spoke said the result would be to put down this practice. He was not stopped in submitting that that would be the consequence of this motion ; and I submit, with every respect, that I am entitled to point out another consequence. Hon. members, however, do not require me to point out more emphatically than I have already done what the consequences of this motion, if carried, would be.

Mr. WISE : Mr. Speaker has already ruled that hon. members are not in order in referring to the consequences of this motion. If the hon. member for West Macquarie is allowed to do so other hon. members will claim the right to do so, and we shall have a protracted debate.

Mr. SPEAKER : I think the hon. member was in order in saying what he said. He said that another hon. member had pointed out that one consequence of the motion would be to put a stop to the practice of Crown law officers appearing in the courts against the Crown ; but at the same time I must ask him to abide by my ruling that the subject-matter of the notice of motion only can be discussed.

Mr. CRICK : I had abided by your ruling, sir, inasmuch as I was leaving that subject. I was pointing out that the motion would not be limited in its consequences to those pointed out by the last speaker. This is not a specific motion that no Minister shall appear against the Crown in his professional capacity. It is not aimed merely at two professional members of the Ministry ; it is aimed at the whole Ministry. If a motion embodying the real spirit of this motion of adjournment were put on the business-paper I believe it would be carried without dissent. I believe Ministers themselves would readily accept it. That is entirely different from a motion of this character aimed at the whole Government. I do not know that the mover of the resolution is actuated by the best motives towards the Government ; perhaps he is not. If he had merely desired to obtain the opinion of the House upon this practice, which prevailed long before the present Attorney-General took office, he

would have put on the business-paper a motion, and would have awaited a proper time to discuss it.

Mr. J. D. FITZGERALD: He would never have reached it!

Mr. CRICK: Will the hon. member point out to me the extreme urgency of reaching the motion just now? Is it not enough that the Attorney-General and the Minister of Justice have retired from the case, and by their action placed on record a precedent which will stand against all previous actions of the kind on the part of other attorney-generals? What further could be desired? Where is the urgency for reaching the question at once? There are scores of motions of greater urgency upon the business-paper. The question is that of the honesty of the hon. member in bringing forward this motion to-night. It is not that he could have wished to bring about an expression of opinion against the practice, because it stands self-condemned. It is condemned by those who, following what has been done in the past, have accepted briefs against the Government; and it is not at all likely that in any future case either the Attorney-General or the Minister of Justice will attempt to take a brief against the Crown. The only object of this motion is to bring about a defeat of the Government. If the motion is pressed to a division, and if it is carried, we shall, of course see the result, and it may be that those who vote for the motion will be regretful of the consequences of their act, when they see the whole work of the session kicked over like a bucket of milk.

Mr. WANT (Paddington) [8.15]: I desire to say a few words of personal explanation in reference to two statements made by the hon. member for West Macquarie. First of all, the hon. gentleman said that I stood in the same position as the Attorney-General with regard to the Proudfoot case. I intend to deal with that matter last. The hon. member also said that when I was Attorney-General I took a brief and a retainer against the Crown. The hon. member must have been misinformed. I will tell the House exactly what happened. For a very long time—nearly a whole year—I had been retained by and conducted a case on behalf of Mr. Brown and the present Premier, then Mr. Dibbs, against the railway commissioners. I was not then a member of the Government, nor was I

[*Mr. Crick.*

even a member of the House. Just before the case reached its last stage I became a member of the House and also Attorney-General. When the last application was made, if my memory serves me right—I think it was the very last stage of the case—I appeared in the Supreme Court and asked the opinion of the Chief Justice and the two judges as to whether they thought it was a right thing for me seeing that I had been taking the case all along, to finish it at the last stage. Before I said one word or did anything in the case I got the opinion of the Full Court, presided over by the late Chief Justice, Sir James Martin, to the effect that I was bound to go on with the case at the last moment, although, to a certain extent, it might seem that I was appearing against the Crown. Before I did any thing in the case after my appointment as Attorney-General I took the precaution, though only at the last stage of the matter, to obtain the opinion of the Supreme Court Bench. I had been acting all along for Mr. Brown, and did not feel justified in throwing him over at the last moment. That is the position of the matter to which the hon. member for West Macquarie referred. With regard to the case of Messrs. Proudfoot, in the first place, I am not aware that I am a member of the Government—not at present, at all events.

Mr. CRICK: I did not say the hon. gentleman was in the same position. I said that the argument of the hon. member for New England would apply to the hon. and learned gentleman.

Mr. WANT: I do not think it will apply. I did not want to speak on this question at all. I did not want to vote upon it, as I felt that to some extent my hands were tied, and I am sorry it is so. I should like to say this: that for two years, like the hon. and learned member for East Sydney, Mr. Reid, I absolutely refused to take a retainer from the railway commissioners, not because I was a member of the Government, not because I would be appearing against the Government, but because I felt that questions might arise in this House in which the commissioners might have to be attacked or defended, and I desired that my hands should be free, and I refused even in this very case of Proudfoot's to accept a retainer from the railway commissioners. I was engaged for a long

time in Proudfoot's cases, but a difference of opinion arose between us, not with reference to this matter, but with reference to something else, and I returned their general retainer, and I also refused to act for the railway commissioners. It was then pointed out to me that Sir Julian Salomons was leaving the country, that the Messrs. Proudfoot had secured almost the whole of the bar on the other side —

MR. WILLIS : Including Mr. Reid !

MR. REID : No !

MR. WANT : I said "nearly" the whole of the bar, and, as I said the other night, I found amongst others that the Attorney-General and the Minister of Justice had been retained. It was then pointed out to me that under these circumstances I should be justified in accepting a retainer on behalf of the commissioners. At the present moment I regret that I did so, because in a deliberation of this kind I feel that my tongue and my hands are tied, and I would much sooner be free. There cannot, however, be the slightest doubt that I stand in a position very different from that of a member of the Government holding a brief against the Government. If I were a member of the Government and held a brief for the commissioners, I should be acting for the Government, and I am at a loss to understand how the hon. member for West Macquarie can say that my position is the same as that of the Attorney-General, because in this case I am appearing for the Crown.

MR. CRICK : The hon. and learned gentleman is paid by the Crown !

MR. WANT : It is only a question whether or not I am breaking the rules of the House. If the House were for a moment to express its opinion that I ought not to appear for the commissioners I should gladly resign.

MR. T. WALKER (Northumberland) [8.21] : It is with some degree of diffidence that I rise to speak at all on this subject to-night, but as I intend to give a vote I feel that it is necessary that I should offer not an explanation or an excuse, but some adequate reasons for the course I intend to take. The statement has been made that the motion moved to-night is practically a vote of censure on the Government. In answer to that let me say, which I do with regret, that it does not concern me. I have only to consider the

principle stated in the motion. I am not concerned with what course the Government may take after this vote is decided. What I have to do by my vote, if I am called upon to vote, is to say whether or not I agree with the statement made by the Attorney-General that the railways are altogether independent of the Crown, and that is too important a principle altogether, leading me to ignore whatever other consequences may come. I exceedingly regret that the question should be forced upon us in this way. If the Government had shown a little more tact and a little courteous consideration the matter might have been fought out fairly upon a definite issue without involving the defeat of the Government.

MR. CRICK : And without involving the loss of all the measures on the business-paper !

MR. T. WALKER : It would be unfair to accuse the hon. member for Tenterfield of having brought that about. That hon. gentleman has taken every possible step to get his motion brought forward as a specific motion to be considered upon its merits. But he has been blocked from doing that, whether wisely or unwisely I am not going to say. Under the circumstances, much as I regret that the matter should be brought before the House in this manner, when I am asked I am bound as fearlessly as the Attorney-General to give my view of the question. I may say that I regret that the Attorney-General made the speech which he did to-night, because it was tantamount to standing up and saying, "Behold, how virtuous I am ! In that virtue I am fearless ; I throw down the gauntlet. I accept and invite you to bring about whatever consequences you please." When that spirit is exhibited hon. members must show that they are not to cringe because of that attitude on the hon. gentleman's part. I feel it incumbent upon me to be as fearless in the performance of my duty and as true to my conscience as the Attorney-General himself. Let us look at what this matter involves. If the House to-night votes an agreement with the opinion of the Attorney-General it will practically say good-bye to all Government management or connection with our railways. We make the divorce complete. That is the contention which is being raised—that the railways are now not only governed

by an independent body of commissioners, but that the Government has no hold upon or connection with those gentlemen—no supremacy whatever. The position would enable the commissioners not only to snap their fingers at the Crown Law Office, but to snap their fingers at the Government themselves. We can easily understand that armed with the authority of the Railway Act the commissioners may say, "We will ignore the Crown Solicitor, and we will have a solicitor of our own;" but that does not enable the commissioners to ignore the Government itself, and that is the point we want to insist upon. The Attorney-General is a member of a government, which Government includes a Minister for Railways, and therefore by taking a brief against the Railway Department the hon. gentleman has practically taken a brief against the Minister for Railways. He has taken a brief against one of his own Cabinet. How can it be said then that this is an independent matter altogether outside of that? However distinct the act may be, in its separation of the railway management from political authority, the Government authority and power is repeatedly seen in the act. It provides that all the funds from the railways shall go into the consolidated revenue, be audited by the Government auditor, and come under the Colonial Treasurer. Therefore, it is a raid upon those very funds; it is a raid upon the money of the country; it is an attack upon the consolidated revenue, upon the property of the people, that the Attorney-General has been briefed to make. He has been briefed to make an attack upon that of which this Government is supposed to be the special custodian and guardian. Nothing should be more keenly felt on the part of the Government than its sensitiveness with regard to the management of the public funds, and yet a member of a government takes a brief to make an attack upon the Treasury of the people, and in order to get from the Treasury of his Government as much money as he possibly can. Now, that may be legal honor, it may be within the bounds of legal etiquette, of professional right, but it surely cannot be public right. We are surely losing some of our fine public sensitiveness if we allow this thing to continue. It is not because the Crown Law Office and the railways are separated that the Government and

the railways are separated. They still maintain their connection. I say, with all respect and deference, that it is throwing dust in our eyes to say that the action is purely one of individual responsibility on the part of the Attorney-General. That may be magnanimous on the part of the hon. gentleman; but there is not a government in the world that will not stand by the actions of each of its members. If the Attorney-General has made a mistake, well and good. Let him admit it, and let him be frank. But if he says he has not made a mistake, and has done right, well and good also. But if the case goes further, and the Government say, "We agree with the Attorney-General, and he has made no mistake"—what then? Why then, whatever the consequences may be, the House ought to say a mistake has been made, and it will not tolerate a similar mistake in the future. Now I sincerely regret that we have had to do it in this form, because I am aware that we decide more issues than the simple one on which we vote to-night; but that is not my fault. It is the fault of the mover of the resolution. It is not the fault of the members of this House, but the fault of certain tactics which have been pursued, and which, in my opinion, are mistaken. It is unfair and unjust to throw the responsibility for those tactics upon those hon. members who were here anxious to do their duty, anxious to do what is right to the country. I am as anxious as any one to see this Government continue its work, to stand by the principles which this Government advocates, but I am still more anxious to protect this country from inroads which may lead to the absolute overthrow of government and of parliamentary management of public affairs in future. I am still more anxious to preserve this country from any suspicion that there can be any trickstering on the part of members of the Government with such important matters of public concern as we have under our consideration to-night. That is more important to me than party government, or support, or my seat in this House. Whatever the consequences are I am prepared for them in the simple performance of my duty. With that spirit which the Attorney-General exhibited I accept his challenge, and will, like him, do my duty, and be as true to my conscience as he is to his, whatever may be the consequences.

[*Mr. T. Walker.*]

Mr. DOWEL (Tamworth) [8:32]: It appears to me that some hon. members desire to have the fate of the Government in their hands to-night, and, if possible, to destroy it. Failing that, there appears to be a deliberate attempt to have the blood of the Attorney-General and of the Minister of Justice. I trust that the efforts in that direction will be prevented, and that hon. members will give a fair and independent vote which will not affect the position of the Government. I listened attentively to the mover of the motion. He dealt with the subject in a fair and temperate spirit, but I failed to see any argument advanced why this should be taken as a motion of censure. It may be an expression of opinion, but it is certainly not a motion of censure. I admit that the Railways Act requires amendment in some particulars. We have had the fact brought prominently before the House in recent debates that the railway commissioners have assumed a position which, in the opinion of many hon. members, is not consistent with the act. The Government are to blame for having consented to the railway commissioners setting up a rival legal department. We have it on the authority of the Attorney-General that that was directly in opposition to the expressed wishes of the Government when they determined not to have the assistance of the law officers of the Crown. The hon. member for St. Leonards informed the House that it was the practice in England that the Attorney-General should not be a member of the Government, and that he should be prepared to consult with and advise the Government and all their departments. But the Attorney-General here is in this position: that he is not consulted by the railway commissioners, and that he cannot be consulted by them. There can be no doubt that the position taken up by the railway commissioners is not correct, and that it will lead to still more disagreeable results. I may take, for instance, as an illustration of the need for an amendment of the Railways Act, the incident which gave the Attorney-General an opportunity of throwing up his brief against a certain department which in his opinion did not conflict with the interests of the state. He pointed out clearly and satisfactorily that the moment it came to his knowledge that his action would prejudice

the interests of the Crown in a department over which he had control he immediately gave up his brief and resumed his proper position as Attorney-General. We know that the railway commissioners have taken matters with a very high hand recently. They have done what in my opinion was very wrong for the Government to sanction. They have removed the whole of their offices from the Public Works Department.

Mr. SPEAKER: I would like to ask the hon. member how his remarks bear upon the matter before the House?

Mr. DOWEL: I was giving an illustration of the action of the commissioners which has led up to this result in being allowed to establish departments of their own, independent of the Government departments. We know perfectly well that they have also carried out other matters in connection with the construction of very large public works, which should not have been allowed and which were never contemplated by the act. They have also set up this large legal department, which involves the expenditure of a very large sum of money. It is unfortunate that the railway commissioners are continually involved in lawsuits of this costly character, and it is all the more imperatively necessary that they should have the advice and be bound by the advice of the great legal advisers of the Crown, including the Attorney-General. Nearly one-half of the whole time of the law courts is taken up by cases with reference to the Crown; therefore, the railway commissioners should not have established for themselves a department which is not thoroughly under the control of the law advisers of the Crown. To my mind, the statement of the Attorney-General to this House was eminently satisfactory; it was a statement which any hon. member, including the leader of the Opposition, who smiles so beautifully, might have made with credit to himself. I am sure that the leader of the Opposition does not desire to see either the Attorney-General, or the Minister of Justice, degraded in the estimation of the House or the country.

Mr. REID: Hear, hear!

Mr. DOWEL: And the great offices they hold should not be brought into degradation or contempt by any inconsiderate action on the part of hon. members.

Mr. BLACK : On the part of the Government !

Mr. DOWEL : If hon. members, for vindictive reasons, or reasons best known to themselves, desire to press this motion to a division, they have not a proper conception of the high, honorable, and responsible duties which have been intrusted to them by the people of the country.

Dr. HOLLIS (Goulburn) [8.40] : If anything was needed to convince the House of the necessity of giving a decided opinion on this subject, it was the line of defence taken by the Attorney-General. We have been told that he has admitted his action in this matter was unreasonable, and that he has thrown up his brief. He has come to this House and defied hon. members. He has defied this House to do its worst. He has told us that he will rely on his own sense of virtue, and upon having acted according to the dictates of his conscience. Does the Attorney-General think that his conscience is of such dimensions that there is no room for any other conscience in this Chamber ? Does he think that no other hon. members have consciences, and that there is nothing in this country except his sense of duty to guide the deliberations of this Chamber ? We have been told that the Attorney-General is a member of a noble profession, and that he has done nothing which in his opinion disqualifies him from occupying an honorable position. Granted ; the Attorney-General excuses himself as a member of a profession to the members of that profession but in this House he is the Attorney-General, a minister of the Crown, and a servant of the people, and the question to be considered is whether in this matter he has acted in the interests of the state or against them ; and that rises above all. That rises above even the consideration hinted at by the hon. member for West Macquarie as to what may be the ultimate fate of this Government and Parliament.

Mr. CRICK : No supply, no estimates !

Dr. HOLLIS : Supply or no supply, ministry or no ministry, we have to decide whether the defiance of the Attorney-General breathed out against the House to-night is to be tolerated—whether we are to be told that, against our own sense of what is right, against our own sense of what is in the public interest, we are to

[*Mr. Dowel.*

do a certain thing because the Attorney-General takes up a certain position.

Mr. CRICK : And leave the country in the position of being without a parliament ?

Dr. HOLLIS : I do not say that the Attorney-General has done anything that detracts from his honor, nor do I say that his colleague has done anything which disqualifies him from occupying a high position in the profession to which he belongs ; but we claim this, and upon this we shall vote : that in this matter of ministers of the Crown accepting a brief against a Government department, we think there is a possibility of great evils creeping into the state. We think that the very retaining of a minister of the Crown to act against a Government department is liable to operate in such a way as to bring a certain pressure upon that department in order to make the heads of the department, as it were, give way. The Attorney-General made an excuse, or rather made an explanation, that it was not so much in bringing this matter into the law courts that he acted, but with a view to bringing about a conciliation and settlement. Can anything be more delicate than that ? A person is about to bring on action against a large public department for a large amount of money. He does not go directly to the Minister of the Crown, or a member of Parliament and say to him, "use your influence as a member of Parliament, or as a minister of the Crown in getting me the best terms of settlement possible, and I will give you such and such a sum of money." It is not likely that any man would do that, but if he is a man who would be likely to be subject to such motives, and if he wished unduly to influence a Government department he would seize upon the fact that a minister of the Crown was a member of a certain profession, and was open by means of his profession to accept a certain reward to act as an intermediary between him and a Government department. That is the danger which is liable to creep in. It is not so much that a minister of the Crown has been pleading the case in open court. In the publicity of the open court there is not much danger to the state. But in the secret negotiations which take place in an arbitration case, negotiations with ministers of the Crown and heads of government departments great abuses are

liable to arise which may result in the demoralisation of the Government departments. It has been said that the effect of the Railways Act has been to make the railway commissioners more independent of the Ministry of the day than they ever were before; but have we not seen from day to day that the commissioners being no longer dependent on the goodwill of hon. members, have been thrown more and more upon the support of ministers of the Crown? Have we not, when the position of the commissioners has been assailed in this Chamber, seen the Attorney-General himself under the necessity of rising to defend them? Who can say then that the commissioners are independent of the Ministry? They are no more independent of the Ministry in consequence of the passing of the Railways Act than they would otherwise be. The question for the House to decide is not whether the Attorney-General has consulted his own conscience in the matter; it is not what may be the consequences of the division, but it is this: Are we prepared after deliberation to say that the great officers of state, the ministers of the Crown, are to be subjected to the corrupting influences of being patronised by private individuals who wish to secure their assistance in taking proceedings against the Crown? To say that the railway commissioners are not subject to the influence of ministers is to say what is absurd. We know that the contrary is the case. Let the ministers be ever so upright we know that we ought not to subject men in high positions to these great temptations. The Attorney-General seems to rely on the fact that he can stand up in the House and claim to be an hon. member who acts independently and according to his conscience. I believe that the hon. member who has moved in this matter is a gentleman who, for independence of action and for reliance upon what is right, would compare with the Attorney-General or any of the Ministry.

Mr. HAYES (The Hume) [8:48]: I feel satisfied that the hon. member for Tenterfield has taken the course which he has to-night from a sense of the importance of bringing this question forward as early as possible. I also feel satisfied that if that hon. member had had an opportunity of bringing on the motion of which he gave notice this House would have

carried it; and I must say that I regret that facilities were not afforded to the hon. member to do so, because on an important matter like this it is absolutely necessary for the House to speak out with a clear and unmistakable voice. There is one difficulty which I and other hon. members will have in voting on this motion of adjournment. We cannot shut out of our minds what the effect will be if the motion is carried. We know what it will be, because we have had a precedent. I refer to the occasion on which the hon. and learned member for Paddington moved the adjournment of the House. That motion was carried, and the result was that the Parkes Government resigned, and I say that if this motion is carried this Government must resign.

Mr. RAE: I rise to order. You ruled, Mr. Speaker, that the hon. member for West Macquarie was not in order in discussing the probable consequences of this motion, and it seems to me that if the hon. member for The Hume pursues that line of argument it will lead to interminable debate.

Mr. CRICK [8:50]: On the point of order I wish to say this. Suppose that any motion is submitted, surely a fair matter for argument is what will be the effect of the motion if it is carried. If a motion is proposed that a tax be imposed in connection with rabbits it would be a fair argument to say what would be the result of the motion, whether it would bring about an increase or a decrease in rabbits. This is all legitimate argument. It would be unfairly tying us down in debate to say that hon. members cannot discuss the inevitable consequences of the motion. It is quite in order to say that if the motion is carried it will have the effect of preventing the Attorney-General in future from taking a brief against the Government. Another hon. member might argue that it is not a direct motion of that kind; but that it is a general motion against the Government. It would be in order to argue whether or not it would have that effect. Therefore, if that is within the fair limit of debate it is equally within the limits of the debate for an hon. member to say what the consequences will be if the motion is carried. We cannot shut our eyes to what happened on the motion of the hon. and learned member



for Paddington. A motion in exactly the same words as the present motion was carried then, the result being the defeat of the ministry and political chaos. Surely it is in order to refer to matters of that kind, and it will prevent absolutely legitimate debate if hon. members cannot do that.

Mr. SPEAKER: The 15th standing order was passed to limit and curtail discussions on motions of adjournment. It limited hon. members to twenty minutes, and restricted them in the discussion to the definite matter which was submitted for discussion. It is of no use to say that hon. members can discuss any other question, because we have got a ruling in the House of Commons by which we are bound in the absence of a standing order of our own, and not once but a dozen times have I quoted it:

Under a motion for the adjournment of the House a motion for the purpose of discussing a definite matter of urgent public importance, it is not competent to enter on another matter distinct from that on which the adjournment was moved not covered by the motion given to the House.

The question here is a consideration of "the danger to the public interest arising from the declaration made by the Attorney-General," then certain facts are set out. What has the consequence of this vote to do with the discussion of this definite matter? I say it has nothing to do with with the question, and it is out of order to debate it.

Mr. HAYES: Of course, I submit to your ruling, Mr. Speaker, and I shall confine myself entirely to the question at issue. I believe that, in moving the adjournment of the House, the hon. member did what was entirely within his rights. I must again express my regret that the matter was not brought forward on the motion of which the hon. member first gave notice. We should then have been in a position to deal with it fairly, without complications. We cannot shut our eyes to the fact that complications will arise if this motion is carried.

Mr. CRICK: Did any one prevent the hon. member from bringing forward his motion? It was the rules of the House that prevented it; the Government did not interfere!

Mr. HAYES: Mr. Speaker has ruled that I cannot discuss anything but the

[*Mr. Hayes.*

question before the Chair, therefore I am not at liberty to show what hon. members must know—that certain measures are now waiting to be dealt with.

Mr. GARRARD: I rise to order. The hon. member is now transgressing your ruling, Mr. Speaker, by discussing the probable results of the motion, if it is carried.

Mr. COPELAND (New England), Secretary for Lands [8.57]: Is this not a motion "that this House do now adjourn?" The motion is made to afford an opportunity to discuss what the hon. member is endeavouring to discuss by a sidewind. If the motion, that this House do now adjourn, is made at a later hour this evening, will not the question be considered whether it is advisable to adjourn or to go on with business? It seems to me, notwithstanding the rulings that have already been given, and to which we all bow, that any member ought to be entitled to show the effect of the motion if it is carried.

Mr. SPEAKER: It is of no use to discuss that. I have already decided that the hon. member cannot do that. I have decided it, not upon my own authority, but upon the authority of the Speaker of the House of Commons upon this very rule.

Mr. COPELAND: Then the question is not "that this House do now adjourn." You stated, sir, that it was.

HON. MEMBERS: Chair! Chair!

Mr. COPELAND: I am in possession of the chair. I submit that the motion is entitled to be considered from the point of view of its effect if it is carried. It is all very well to introduce side questions; but we must bear in mind what is the question that is stated from the Chair. I submit, with all due deference to the Chair, that every hon. member ought to be entitled to show what the effect of the motion will be if it is carried.

Mr. SPEAKER: I should like to point out to the hon. member that the ordinary motion for adjournment did enable a member to discuss every conceivable subject. The House then passed a standing order by which it limited that discussion. It said that an hon. member might move the adjournment of the House—what for? For the purpose of discussing a definite matter of urgent public importance; and the ruling given upon and the interpretation of that standing order, which is

taken from the standing orders of the House of Commons, is that nothing else can be discussed except that definite matter which is stated. The question here is to consider the declaration of the Attorney-General.

Mr. HAYES : I assume that the observations I was making were out of order, and I shall conclude by simply expressing my regret that the motion did not come forward in the ordinary way, so that I could have given my vote without hesitation upon it. I cannot support the hon. member's motion to-night, knowing as I do, and as the people of the country will know, what the effect of it will be.

Mr. RAE (The Murrumbidgee) [9] : There is one question which seems to me not to have been touched upon in the debate, which has to a certain extent assumed a party character. For my own part, I shall be only too glad if this motion, whether carried or not, has no effect whatever upon the existence of the Government ; but, as the hon. member for Northumberland, Mr. T. Walker, has stated, it is our duty to vote according to our principles, not according to any possible effect which our votes may have. The Attorney-General stated during his defence, if we may so term it, that the Crown could not be involved over an action of this kind in such a manner as to put him in the position of having to choose between conflicting duties. Is it not a fact that the other evening, when he made a statement in regard to this same matter, the hon. and learned gentleman stated that on account of some dispute, or some plea entered into by the commissioners relative to a will not having been sufficiently stamped, his opinion might be asked —

Mr. SPEAKER : The hon. member is now out of order, because he is discussing a matter which is on the business-paper for future consideration.

Mr. RAE : I regret that fact ; but I wish to show that the contention raised that this is not a government department, and that therefore there can be no conflict of duty in the Attorney-General taking a brief against the commissioners, cannot be upheld, as, according to his own account, the very reason why he returned those briefs was because he found that his duties as Attorney-General —

Mr. SPEAKER : I have told the hon. member that he is out of order in discuss-

ing that question at all. I hope the hon. member will discontinue discussing it.

Mr. RAE : Certainly. I was not aware that I was transgressing the rules of debate.

Mr. SPEAKER : The hon. member may not know that that very question is down for consideration for a future day, and it is not open on a motion for adjournment to anticipate it. For that reason the hon. member will be debarred from referring to anything arising on that question, and he must deal generally with the definite motion before the Chair.

Mr. RAE : All I regret is that on account of this matter being down for discussion, debate is so limited in this direction ; but I thought the question specifically before the House was to consider as to whether the Railway Department was a Government department or not. I contend that whether it is or is not a Government department, at any rate it comes into very close relation with the Government and with the Crown law officers, as has already been proved. The Attorney-General stated that the people of this country had not expressed any opinion only so far as they might be ignorant of the true position of affairs. I think I understand the position as laid down by the Attorney-General, and it really amounts to this : that because technically he upholds the position that there is no getting between the Railway Department and the Crown, therefore it is open for him to take this brief against the Railway Department. I think the people as a whole simply recognise this broad fact : that whatever happens they have to find the money. It does not matter who dances, they have to pay the piper. Therefore, it seems to me that we have no occasion whatever to discuss the relative merits of ordinary morality, and that peculiar article termed legal morality—that we can very well leave that to the legal lights of the House, and that we can content ourselves with voting in accordance with the common-sense view of the situation, which, from one end of the country to the other, is fairly and fully grasped by the people, namely, that no person who is paid for certain duties on behalf of those people should do anything whatever to lead him into a contrary course of action. Therefore, no matter what the consequence may be, however much we may regret any pos-

sible consequence which may ensue, there is only one course open to any one who is not tied by those party ties which seem to rule some hon. members' consciences.

Mr. COPELAND (New England), Secretary for Lands [9.5]: I should like to say a word or two before this question comes to an issue, because I must confess that as a layman I never could approve of the policy that has been adopted for many years past in connection with the legal question. I am quite free to admit that I am prepared to accept the Attorney-General's opinion as to what legal etiquette may amount to. I accept it without question, and with every confidence; but, as I have stated, it has always appeared to me a somewhat difficult position. Therefore, as a layman I am not at all sorry the question has come up for final decision; but I think, in common justice to the Attorney-General, it should be pointed out that neither he nor the Minister of Justice are in any way responsible for following the course they followed in accepting these briefs. Any one hearing the debate would think they were responsible for initiating this system. What are the facts? This system has been in practice for many years, and I hold the hon. member for St. Leonards, Sir Henry Parkes, solely responsible for its initiation. Does the hon. member remember being in office in 1882 as Premier, and does he remember having a colleague in the person of Mr. Stephen Campbell Brown, who was acting as Postmaster-General? Is the hon. member aware that whilst he occupied that position in the hon. member's Government he was in the habit of accepting briefs against the Crown—against the Commissioner for Railways?

Mr. RAE: That does not make it right!

Mr. COPELAND: I am not saying that it does. Two wrongs do not make a right. Hon. members, however, must admit that the Attorney-General and the Minister of Justice have not originated this practice, but are merely following in the footsteps of their predecessors, and they should deserve credit rather for having, as soon as the matter was brought to their attention, thrown up their briefs, and retired from a position from which their predecessors did not retire.

Mr. LANGWELL: They do not say it is wrong; they say the principle is right!

[*Mr. Rae.*

Mr. COPELAND: They say the principle is right, and I am prepared to bow to their opinion that the principle is right, as far as the matter of legal etiquette is concerned. I, being a layman, may perhaps, not have that acute sense of what is right and wrong from the barristerial point of view. I confess I never could appreciate the position; and I will refer later on to action I myself took when in the Jennings Government. Let me point out, however, that in June, 1882, Mr. Stephen Campbell Brown, being then Postmaster-General in the Parkes-Robertson Government—

Mr. DANAHEY: I rise to order. I find a motion on the business-paper in the name of the hon. member for Bourke, Mr. Willis, to the following effect:

That, in the opinion of this House, the acceptance by the Attorney-General and the Minister of Justice of briefs in support of an action brought by Proudfoot & Co. against the railway commissioners does not accord with their duty as ministers of the Crown, is against the public interest, and affords a precedent which should not be followed in the future.

The hon. member is now discussing the right of the Attorney-General and the Minister of Justice to accept a brief, and is giving as his reason the fact that Mr. Stephen Campbell Brown accepted briefs against the railway commissioners. I consider the question before the House is the statement made by the Attorney-General in his explanation, and not whether it is right or wrong to accept briefs. The explanation of the Attorney-General was that the department of the railway commissioners had ceased to exist as a Government department. I consider the debate should be limited to those lines.

Mr. GARRARD: Surely the hon. member is in order in going back to the time —

Mr. SPEAKER: The hon. member is in order.

Mr. COPELAND: I can easily understand that the hon. member for Canterbury would like to squelch debate on the opposite side; that he would like to have the question merely put from one point of view. The hon. member wants his own view put before the country, and to lock up everyone else's mouth.

Mr. DANAHEY: Is the hon. member in order in making an accusation of that kind?

Mr. SPEAKER : If the hon. member cannot stop his interjections he will have to go outside.

Mr. COPELAND : In support of the position taken up by the Attorney-General, and to show that the practice is not a new one, I want to refer again to distinct facts. I want to show that in 1882, whilst Mr. Stephen Campbell Brown was a member of the Parkes-Robertson Government, and held the portfolio of Postmaster-General, he fought a case against the then railway commissioner, Mr. Goodchap. The action was known as *Bowden versus Commissioner for Railways*. He occupied the position of solicitor in the case, and he also instructed certain barristers to appear against the Crown. One of these barristers is the present leader of the Opposition, who then held a seat in the House. The leader of the Opposition will not deny the fact that he was in this Chamber in 1882. The hon. and learned member held a brief, along with Mr. Pilcher, and the hon. and learned member was instructed in that brief by the then Postmaster-General, Mr. Stephen Campbell Brown, who conducted the case throughout against the railway commissioner. I wish to emphasise this fact : that at that time the whole business of the railway commissioner, Mr. Goodchap, was conducted in the Crown Solicitor's Office. That is very different from the present system. I can honestly say that there is no member of the Government who has any knowledge whatever as to whether the commissioners are carrying on a lawsuit, or how they intend to conduct it. The commissioners point-blank refuse to submit their business to the conduct of the Government. Whether it is right or wrong is another thing. It is perfectly clear to my mind that it is absolutely necessary that some act should be passed to forcibly bring the commissioners under the control of the Attorney-General for the time-being, and of the Crown law officers just the same as every other department of the Government.

Sir HENRY PARKES : There is no new act necessary !

Mr. COPELAND : I say a new act is necessary.

Sir HENRY PARKES : It is not !

Mr. COPELAND : At any rate, we inherited what the hon. member left us. We have not initiated any new practice.

We have simply carried out the practice which the hon. member himself initiated.

Mr. GARRARD : The hon. member has not proved it yet !

Mr. COPELAND : Proved what ?

Mr. GARRARD : The difference between the then Postmaster-General and the present Attorney-General accepting briefs !

Mr. COPELAND : I have proved that a member of that ministry, occupying the position of Postmaster-General, a position quite as responsible as that of the Minister of Justice, with the full cognisance of the ex-Premier, carried on that lawsuit from beginning to end.

Mr. SLATTERY : And several others !

Mr. COPELAND : And several others, too. Whilst occupying that position he instructed Mr. George Reid, the present leader of the Opposition, who also held a seat in this House. That gentleman held a brief against the railway commissioner, and there was no word whatever about it. There was nothing heard about a matter of that kind because the ex-Premier was then the head of the Government. I am very glad the hon. and learned member for Paddington, Mr. Want, is within the Chamber. The hon. and learned member spoke a short time ago, and made it appear that it was merely at the fag-end of the case—the New Lambton Company against the railway commissioner that he appeared. The hon. member's memory has failed him. The hon. and learned member was Attorney-General for twelve months all but a few days, and I had the honor of being one of his colleagues. During the whole of that time the hon. and learned member held a brief against the Government. I make that assertion, and if the hon. and learned member can disprove it I will apologise. I say that from the beginning to the end of that Government, during which time the hon. and learned member was Attorney-General, he was not for one moment without a brief against the Crown.

Sir GEORGE DIBBS : Perfectly true !

Mr. COPELAND : I say more. At that time also, as well as during the time to which I have previously referred, the then Commissioner for Railways conducted the railway business through the Crown Law Offices, and we were in this position : The Attorney-General was fighting against the Government, and we had to depend on

the Crown Solicitor to defend the interests of the Government.

Sir GEORGE DIBBS: The hon. and learned member for South Sydney, Mr. Wise, held a brief on the other side!

Mr. COPELAND: As a layman, I took exception to the position at that time, and remember well that on one occasion, just before a big action was coming on for trial, on the day when the hon. and learned member was going to leave Sydney in order to plead the case against the Crown, the Government held a scratch Cabinet in the old ministerial room at Parliament House, and the lay members of the Government then expressed the same opinion as I have just expressed, namely, that, however right such a position might be in the eyes of barristers, and in accordance with legal etiquette, we, as laymen, certainly could not appreciate it.

Mr. RAE: The hon. member cast his bread upon the waters then!

Mr. COPELAND: I do not exactly see where the remark comes in.

Mr. RAE: Now it is returning after many days!

Mr. WANT: The Secretary for Lands is absolutely incorrect. The case had gone to arbitration, and the verdict had been given by the arbitrators long before I was Attorney-General!

Mr. COPELAND: What is the use of the hon. member saying that. One of the plaintiffs in the case was the present Premier, and the chief witness against the Crown was the Secretary for Mines, Mr. Fletcher. It just shows into what extreme positions you may be led in allowing these things to go on in this manner. There is the fact that the then Colonial Treasurer was one of the plaintiffs in the case. It was not possible for him to help his position. I do not suppose that he voluntarily took the position of plaintiff. The case happened to come on when he was in office, and he was justified in prosecuting his suit.

Mr. G. D. CLARK: They must have been a bad lot in the olden time!

Mr. COPELAND: I do not know that we were worse than the present lot. I merely wish to disabuse hon. members' minds of the idea that the present Attorney-General and the Minister of Justice have initiated this practice. The practice is as old as the hills, and whether rightly or

wrongly, they have merely followed in the footsteps of their predecessors.

Mr. ALLEN: The practice should cease now, at all events!

Mr. COPELAND: I agree with the hon. member that the practice should cease, and there are many other things that should cease to exist in connection with the Government. I am sure that it is the duty of the Government to pass a bill to make the railway commissioners occupy the same position as any other department. Why should they be above ministers? Why should they refuse to submit their cases to the Attorney-General any more than any other department of the Crown should do so? There is no reason whatever. I heard the remarks of the hon. member for St. Leonards, Sir Henry Parkes, when he endeavoured to make out that the railway commissioners were simply an ordinary department of the Crown. I say again that when we took office we inherited what the hon. member had left us, and we then found the railway commissioners took up the position that they held themselves above and outside any dictation from the ministry of the day.

Mr. KIDD: They do so now!

Mr. COPELAND: They do so now.

Mr. SCOTT: The hon. and learned member for The Glebe, Mr. Bruce Smith, told me they were beyond the control of the Government!

Mr. GARRARD: The Railway Acts does not give them that power!

Mr. COPELAND: They take that power, whether the Railways Act gives it or not. Probably hon. members sitting on that side of the House would have been delighted if the present Government on taking office had immediately come into collision with the railway commissioners. I am quite sure that the Opposition members would have been delighted if we had resorted to that practice.

Mr. GARRARD: Why?

Mr. COPELAND: Simply because they know perfectly well that it would have brought the Government into conflict with the opinion of a great many hon. members, and a great many people outside the House. The railway commissioners are very popular—in my opinion, deservedly so—and I would be one of the last members to attempt in any way to interfere with their full control of the railways;

[*Mr. Copeland.*]

but I say that in taking their present course they are going altogether beyond what is in the interest of the Government and of the country. The Government, and particularly the Attorney-General, should be absolutely cognisant of every lawsuit that the railway commissioners are carrying on. So long as the Attorney-General is a trusted law officer of the Crown, he should advise the railway commissioners in every action they have; but they snap their fingers at the Government. They refuse to submit their cases to the Attorney-General.

Mr. KIDD: They have always refused to do that!

Mr. COPELAND: I do not care a solitary red cent what the result of this motion may be. So far as I am concerned, hon. members may either carry it or negative it just as they like. I simply rose for the purpose of removing the odium from my colleague, the Attorney-General, and I am sure that no gentleman who ever sat in this Parliament has less deserved to have a stigma cast on his character than the Attorney-General does. I am quite sure that he would not ill-advise the Government, and I am equally sure that he would not take up a position which was not in full harmony, not only with the practice of the bar, but also with every species of loyalty to the Crown, honor to himself, and fidelity to his colleagues.

Mr. HOUGHTON: The same may be said of the Minister of Justice!

Mr. COPELAND: I have simply risen to point out that the Attorney-General and the Minister of Justice are not responsible for the initiation of this custom—that in accepting briefs as they did, they merely followed a practice that was established years ago. I have no doubt the leader of the Opposition is highly indignant. I am not quite sure whether he did not express himself in virtuous indignation at any barrister taking a brief against the Crown. What a wonderful thing is memory! What a wonderful thing it is that these facts are recorded in the history of the country, and that if necessary we can turn up *Hansard* and the daily press, and find these facts! Let any of the hon. gentlemen to whom I have referred refute them if they are in a position to do so. I say that the leader of the Opposition, while he was a member of the House, held a brief

against the then commissioner for railways, and that he received his brief from the Postmaster-General in the Parkes-Robertson Government.

Mr. GARRARD: He was not a minister of the Crown at the time!

Mr. COPELAND: No; but we have got further than ministers of the Crown. It has been stated here to-night—the statement has been received with acclamation, and I think that the leader of the Opposition himself took up the position—that no barrister, whether a minister of the Crown or not, if he held a seat in the House, should accept a brief against the Government. What becomes of the hon. and learned member's doctrine of to-night as compared with his practice when he had the opportunity of accepting a brief? I have yet to learn that the railway commissioners would intrust a brief to the hon. and learned member. I have strong doubts as to their doing so; therefore the grapes may be sour, and we can understand his saying that he would refuse to take a brief from them at the present time. But we know what he did when he had an opportunity. When he was a member of the House he took a brief from a minister of the Crown against the Crown.

Sir HENRY PARKES: The hon. member who has just sat down has been good enough to state that Mr. Stephen Campbell Brown was Postmaster-General, and that in June, 1882, he acted as solicitor in some case against the Government with my full cognisance. That is the statement, I believe.

Mr. COPELAND: That is the statement. I presume the hon. member knew what took place in his own Cabinet?

Sir HENRY PARKES: I never heard of the action of Mr. Brown until to-night, and in June, 1882, I was in Europe. I have a recollection of Mr. Stephen Campbell Brown accepting office just before I left the colony and resigning a few days after my return.

Mr. COPELAND: The hon. member was away only six months!

Mr. WANT: The Secretary for Lands asked for a correction if it was possible to give one. I can tell the hon. member this: I was retained in that case long before I was Attorney-General.

Mr. COPELAND: I don't doubt that!

Mr. WANT: I conducted the case for nearly a whole year, if my memory serves me correctly. The action was for compensation for the resumption of land, and it went to arbitration. I conducted the arbitration long before I was Attorney-General. I conducted the case before I was a member of the House at all, and a verdict was given by the arbitrators before I was a member of the House, or, at all events, long before I was Attorney-General. It is true that after that I continued to conduct the case for the present Premier and Mr. Brown, but I only did so after taking the trouble to consult the highest authority in the land. I must confess that I had great doubts even then as to whether I should go on with it.

Sir GEORGE DIBBS: But the hon. and learned member did go on with it!

Mr. WANT: I did so in a spirit of honesty towards my clients, because I was the only barrister who knew anything about the case. If I had not gone on with the case I could not have been called in to advise the Government. Having been engaged in the case, my opinion could not have been obtained by the Government, and if the question had arisen as to the verdict I should have had to say to the Cabinet, "You cannot ask me a solitary question about this case: I am shut out of it, because I was previously engaged in it."

Mr. SPEAKER: The hon. and learned member cannot go into that matter now. He rose to make an explanation, but he is now using arguments.

Mr. COPELAND: The hon. member instituted new actions during the time!

Mr. WANT: That is not correct.

Mr. GOUGH (Young) [9-28]: It has been contended that the course adopted by other hon. gentlemen previously fully justifies the course recently taken by the Attorney-General. It has also been argued that the railway commissioners are beyond the control of the Government. I submit that the act places the railway management in the hands of the commissioners with a responsible minister of the Crown at their head. What does the act say?

"Minister" shall mean the responsible minister of the Crown for the time-being.

Then it goes on to say that the responsible minister of the Crown may suspend the commissioners, but that no dismissal of them shall take place until he shall have laid the case in connection with which he

[*Mr. Want.*

had suspended the commissioners before the House within seven days after the suspension has taken place. I should like to hear the Minister for Railways express his opinion upon this question before I record my vote. Surely he, above all other gentlemen connected with the railway management, should be consulted, as the head of that great department, by the commissioners before action of any character is taken which may involve the country in a large expenditure of its funds. The Railways Act places the railway management under the commissioners exactly in the same position as any other department. They are placed in responsible positions as administering the law under the control of Parliament, and of the Government, and if there is any department connected with the political life of this country which may be regarded as a Government department, surely the Railway Department, above all others, is that department. The commissioners are placed there to administer a law that has been passed by Parliament, and I submit that in that sense, at any rate, they are as much a Government department as the Department of Lands, or the Department of Mines, or any other department presided over by a minister. I can scarcely appreciate the contention of the Attorney-General that his action was taken in consequence of the commissioners for railways having a position distinct from Government control. I am also at a loss to know how it is that the commissioners took up the position they have taken in this case without consulting the Minister for Railways, the colonial treasurer for the time-being, and it would be well for the Colonial Treasurer, before this debate closes, to give us his version of that question. I regret that this motion has been brought on to-night, in so far as it affects the position of the Government. With regard to the Attorney-General and the way in which the motion affects him, I care very little, because I am sure members of this House conscientiously believe that the Attorney-General is not the kind of man to prejudice his position in the country and in this House for the sake of a few pounds. He would not have taken up the position he took in this matter unless his judgment and conscience convinced him that it was right. It is for the House to say to-night whether it will

wreck the Government because the opinion of the Attorney-General in this matter is contradictory to our opinion. I hold strong opinions on the question, and I say it is a serious thing for the public life of this country if gentlemen occupying the position of ministers are allowed to take a course of action prejudicial to the Government. Any such course must be strongly deprecated by the people of this country. It is not only against the best interests of this country, but it is against constitutional government. I am quite willing to concede this to the Attorney-General; that he took the course he did believing it to be perfectly right, and believing that he was at perfect liberty to take it. The hon. gentleman took up his position in good conscience, and in any vote I give on this question, I claim to be actuated by the same good conscience whether the fate of the Government be involved in the vote or not. I shall record my vote in the direction which, I think, best accords with my public duty. A good deal has been said about the motives underlying this motion, and the leader of the Opposition attacked the Premier for taking a point of order at the commencement of the debate. The hon. member characterised the Premier's action as an indecent thing; but it is the course which ninety-nine persons out of a hundred would have taken. Is it not reasonable to defend a friend when we see an opportunity to do so? Should we expect an enemy to assist a friend in difficulties? No doubt the Premier took the course he did in what he conceived to be the best interests of the country. The question we have now to consider is in what way this motion, if carried, will affect the Government, and through them the country. If this motion of censure be carried, and the Government go out of office, it is a well-known fact that the government of the country will have to be carried on for a considerable time before an election can take place, and the question is, whether this Government has outlived its usefulness. If hon. members think that, how is it that so many hon. members on both sides of the House have been so anxious to assist them in carrying the various measures which are in course of becoming law?

Mr. GARRARD: I should like to know whether the hon. member's remarks are now in order?

Mr. SPEAKER: The hon. member is not in order.

Mr. GOUGH: I thought I was discussing questions which had been discussed by other hon. members. I will conclude by saying that this House will have to consider its duty to the country in this matter. It will be for hon. members to record their votes conscientiously and take the consequences.

Mr. SEE (Grafton), Colonial Treasurer [9-35]: I will not detain the House many moments. As hon. members are aware, the Railways Act places absolutely under the control of the commissioners the management and conduct of the railways of this country. There are only a few sections in the Railways Act in connection with which the Minister or the Government are called upon to act. One of these concerns the removal of the commissioners in the event of their not properly administering the act. Excepting the matters referred to in the few sections I mention—there are not more than four or five of them altogether—the whole management of the railways is under the control of the railway commissioners. With regard to this particular case the railway commissioners did not consult me, as Minister for Railways, in any way. In point of fact, I do not know whether the action against them was begun during the time I have been Minister for Railways, or previous to that. I know, as the whole country knows, that there is a dispute between the commissioners and Messrs. Proudfoot; but I was not consulted, as Minister for Railways, as to the course the commissioners should pursue in the case, and, so far as I know, the matter has never been referred to the Crown law officers—the Attorney-General and the Minister of Justice. The railway commissioners have their own solicitor, who was appointed on the 1st January, and who filled his office from that date. This action has been in the hands of Mr. Robert Smith ever since its inception, and was so placed by the railway commissioners. All matters in connection with the case have been dealt with by him as representing the commissioners. It is idle for the House to say that the Government have control over the railway commissioners. Except in regard to the four or five sections of the act I have mentioned, the management of the railways is



entirely in the hands of the commissioners. I do not wish to enter into the merits of this case. I know nothing of legal technicalities, and I do not pretend to give an opinion. Until the motion of adjournment was moved the other night by the hon. member for West Macquarie, I had no knowledge of the points in dispute.

Mr. SPEAKER : The hon. member is not at liberty to discuss that question on this motion.

Mr. SEE : I will merely emphasise this fact : that the Minister for Railways is simply the nominal head of the department. There are certain conditions under which reference must be made to him ; for instance, in the matter of traffic returns, and things of that sort. There are not more than four or five sections in the whole act necessitating such a reference. The Railways Act empowers the commissioners to deal with the management of the railways, including matters of law, absolutely as they think proper, and if they and their solicitor do not think it advisable to refer matters in dispute to the Crown law officers, there is no law under which they can be compelled to do so.

Mr. R. B. WILKINSON (Balranald) [9.40] : I regret exceedingly that this motion is complicated by the introduction of the merits or demerits of the Railways Act. I know that some hon. members entertain very strong opinions against the act, and it seems to me very likely that the introduction of the question into this debate will prejudice the votes of a great number of hon. members. I was unfortunately not here to-night when the motion was moved, and when the Attorney-General made his speech, but on the broad question I think every one must hold the opinion that it is incongruous that a member of a government should hold a brief against the Crown. I know nothing about legal etiquette, but I quite agree with the hon. member for Young, Mr. Gough, that we are safe in leaving the honor of the Government and of this House with the Attorney-General and Minister of Justice. They may make mistakes, but our honor is quite safe in their hands. What has been their action ? The moment they found themselves in a false position what did they do ? They retired from the case. For what purpose has this question been brought before the House to-night ? We cannot get a straight

[*Mr. See.*

vote on the merits of the question because it is complicated by considerations affecting the Railways Act. Therein lies the evil of dealing with this question not by specific motion but by motion of adjournment. What will this motion of adjournment mean if carried ? It will mean this : that not only is this House dissatisfied with the action of the Attorney-General and the Minister of Justice, but that it is determined to take out of the hands of the present Government the conduct of the business of the country. Are hon. members prepared to take that course upon the mere question as to whether it is right or wrong for the Attorney-General or Minister of Justice to take certain briefs. Are hon. members aware of the consequences of their vote upon this question, or are they prepared to vote regardless of consequences ? Can any hon. member, knowing the position of affairs in this country at the present time, conscientiously give a vote on this question regardless of consequences ? The man who says he will do so is a traitor to this country. The mover of the motion may have been perfectly justified in bringing the matter forward for discussion, and with a view to lay before the Government and the country the opinions of hon. members as to action taken by the law officers of the Crown ; but is the hon. member prepared to take the consequences of his motion ? Is he prepared to throw legislation and the whole government of the country into disorder ? Does he not know that there are a number of bills before the Upper House at the present moment ? Is he prepared to sacrifice the whole of those measures ?

Mr. JONES : I rise to order. Is the hon. member in order in discussing the consequences of the motion ?

Mr. SPEAKER : The hon. member is not in order.

Mr. R. B. WILKINSON : Am I to understand that I am not in order in discussing the consequences of the motion ?

Mr. SPEAKER : The same question has been raised several times to-night, and I have pointed out that the rule is that on motions of this kind the debate must be confined to the subject-matter of the notice of motion. The hon. member is out of order, as many other hon. members have been.

Mr. R. B. WILKINSON : Then I understand I shall be out of order in alluding

to the consequences which may follow from the carrying of this motion, and that being so, I have little more to say. If we carry this motion no good will result except that all the legislative machinery will be thrown out of order. I would suggest to the hon. member for Tenterfield that having obtained an expression of opinion on this question, and in view of the near approach of a general election when the question can be dealt with by the people, it would be better in the interests of the country—not in the interest of parties or of individuals—if the hon. member did not press the question to a vote, because the consequences of that vote may be immeasurably out of accord with the actual question itself.

Mr. SHELTON (The Namoi) [9:47]: I should like to make a few remarks before the debate closes, and in doing so I should like it to be clearly understood that I quite exonerate the two ministers concerned, because I believe in the action they took they only followed precedent. At the same time, I cannot see what good result can follow from a motion of this kind being pressed. If a bill were introduced making it impossible for a minister of the Crown to again place himself in the position in which the Attorney-General has placed himself, I would gladly support it. But there are other considerations involved. In the first place, what good can possibly be obtained by proceeding with a motion of this kind which can have no other result than a mere expression of opinion? I decline to look upon this question from any party standpoint, and whatever may be the result, and however much I may be censured, I shall be no party to bringing about a crisis in which the welfare of the country may be jeopardised.

Mr. BAVISTER (Canterbury) [9:50]: It appears to me that much has been said to-night to endeavour to persuade some of us from doing what we believe to be our duty in recording our votes in this matter. It appears to me that what is considered honorable conduct on the part of one set of persons, is not to apply to others in a different sphere. I cannot understand how conduct which would be held up to the utmost reprobation if committed by a person in private employment, should be regarded in a different light in a case like the present. If a confidential servant in private employment

were found betraying the secrets of his employer, or accepting remuneration to act in opposition to the interests of that employer, there would be no question as to whether he had not done something directly in opposition to his duty; whether, in fact, he had not committed a grossly dishonorable action. I cannot see where the distinction comes in. If such an act on the part of a comparatively ignorant man is wrong, how can these highly educated men be made to appear right in their much more wrongful act? I am reminded by an hon. gentleman that I am not a lawyer. Amongst the things that I have to be thankful for, that is one of them. If lawyers' honor is so different from that of —

AN HON. MEMBER: A bricklayer!

Mr. BAVISTER: A bricklayer, or any other old-fashioned, plain, common person, then I think it is very much to be regretted. When we find the great abilities of gentlemen in this House applied to straining the feeling of honor, and glossing over that which in a different sphere of life would be held up to the utmost contempt, I think it is to be regretted. I shall have no hesitation in expressing by my vote as fearlessly as I can, the contempt I feel for any gentleman who will allow himself to so use the opportunities of his office as to do a thing which appears to me to be so utterly indefensible.

Mr. KELLY (West Sydney) [9:54]: I must say that this matter has come to rather a critical position. I think every hon. member is called upon as a matter of duty to record his vote either one way or the other. I have listened attentively to the arguments advanced for and against, and I believe the Attorney-General has acted wrongly. We have heard to-night from some hon. members what the consequence of this vote will be; but as far as I am concerned that does not trouble me in the least. In my opinion the Attorney-General had no right to accept the brief which was offered to him by Messrs. Proudfoot & Co. The hon. member who has moved the adjournment to-night has not received fair play. He gave the Government every opportunity to afford him a day on which he could discuss this matter. Had that day been granted by the Government the probability is that only the two hon. gentlemen concerned would have been

censured. But seeing that the hon. member for Tenterfield was debarred from reaching his motion the only course left to him was to move the adjournment of the House. I intend on this occasion to record my vote according to the dictates of my conscience, and my conscience distinctly tells me that the Attorney-General has done wrong. Therefore I shall record my vote against the Government very reluctantly. This is not a matter to be considered in this House, but it is a question for the country to decide whether or not a practice of this kind is to be permitted. Whether or not we indorse the action of the Attorney-General eventually we should not be justified in deciding the matter to-night. No hon. member will go before the electors and say that the Attorney-General was justified in the action he took, and if a division is called for, notwithstanding what may be said by my enemies or my friends, I shall as a matter of public duty, in the interests of the country, and for the preservation of the consolidated revenue, record my vote against the Government.

Mr. WALL (Mudgee) [9.58]: It appears to me that this question has narrowed itself down to the explanation given by the Attorney-General rather than to the conduct of the Attorney-General and the Minister of Justice in accepting briefs. In retiring from the position he took up as counsel for Messrs. Proudfoot, the Attorney-General stated that he was perfectly justified in accepting the brief. If that expression of opinion had been given outside of the House, the fact of the Attorney-General having retired from the position would have been sufficient for me; but the expression having been made in this House by a member of the Government, and being uncontradicted by the Government we must take it as the expression of opinion on the part of the Ministry as a whole. I have no hesitation in recording my vote this evening. I am quite convinced that it is not the duty of the Attorney-General to accept a brief against the Crown. Had the two ministers concerned retired from their position in a proper manner the House would have been perfectly satisfied. But they stated that they retired, not because they were in the wrong, but because in the progress of the case their services might be required on behalf of another department. I hold that the Department

of Railways is one of our public departments. The arguments adduced by ministers to-night to show that the Railway Department is beyond the control of the Government reflect no credit upon them. They should insist upon controlling that department, and if the act was in any way defective, and placed a large department like this beyond their control, it was their bounden duty to come down and ask that the act should be amended so as to give the Government control of the railways. Setting up any defence on the fact that the Railway Department is not under the control of the Minister, that it is a perfectly independent department, goes to show that ministers have failed in the discharge of their duty. If such was the case, their course was plain. They should have come to this House and asked for special powers to control a large public department like the railways. Seeing that the question before the House is whether a minister of the Crown or the Attorney-General is perfectly justified in holding a brief against the Railway Department, I shall be compelled to record my vote against such a view. I hold that in any department where the public funds are concerned it is not the duty of a minister of the Crown, although it may perhaps be in accordance with past custom or legal etiquette to act against that department. When we are asked to express an opinion as to whether or not a minister of the Crown can accept a brief against the Crown this House can only express its opinion one way, and that is by asserting that it is not the duty of a minister of the Crown to accept such a brief.

Mr. ROSE (Argyle) [10.2]: At the eleventh hour there is not much virtue in deserting a sinking ship. There may appear to be a very good opening at the present moment for hon. members to cross from this side of the House to the other upon a point of honor. On a question of expediency or emergency hon. members should never desert one side until the other side make out a better case. I am here to say that hon. members opposite have not made out a better case. The first position I take is this: What is the object of this motion? Will the hon. member who moved it tell me? No. There can only be two reasons for introducing the motion. One is to censure the members of this Ministry,

[*Mr. Kelly.*]

and the other is as a condemnatory measure against the entire Ministry. Now, the position is this: can I not in this House to-night condemn the action of one or two men without taking up such a position as to censure the entire Government? Must I deliberately vote to oust a government from office because I disagree with certain action of one or two of its members? I admit, with every hon. member, that altogether apart from technical constructions, the spirit of public morality has not been conserved by the action of the Attorney-General. Legally it may be right, technically he may have everything on his side, but in a broad spirit I know no other aspect than what is honorable to the whole community. While I take up that position, I have to take other circumstances under review. Is it not a fact that you are now trying to close the stable door after the horse has gone out? Do we not know that those two hon. members have receded from the position? The contention of hon. members opposite is that we to-night must establish a precedent. We are asked to put on the records of *Hansard* or through the daily press our views that this thing must not be tolerated any longer. We can have no stronger precedent than the action which has been taken by the Minister of Justice and Attorney-General. If those two men had remained in their position, if they had defied public opinion, if they had told the House, "Whether you like it or not we shall still retain our briefs," there would be reason for this vote of censure; but by their own admission they have withdrawn from their own debatable position; and what remains? We cannot put any better record upon our proceedings than that fact. The other aspect is the speech made by the Attorney-General. Is that to be taken entirely into consideration? Is it not sufficient for us to know that in that speech there was no declaration that carried conviction home to us that his action was, from a public sense, correct?

AN HON. MEMBER: No!

MR. ROSE: If the hon. member says "no," let it remain. The position is this: Is it a fair thing to call upon the Ministry to resign on account of the defections of those members? Hon. members take up the position that we cannot disagree with the action of the Attorney-General with-

out turning the Ministry out of office. If that is the case we have come to a very peculiar position in this House. We disagree on many occasions. We voice our sentiments, and they go forth as protests from one end of the colony to another. Surely we can voice the same sentiments this evening. In all dealings of a political nature you have to balance the greater against the lesser evil, and that is our position to-day. The lesser evil, in my opinion, is not to press this vote to a division, for the simple reason that by the resignation of the two members from their positions, you have established the precedent. The greater evil is decidedly to suspend public business at the present time. It must not go forth to the country that men who will not desert a sinking ship uphold the position taken by the Minister of Justice and Attorney-General. I, for one, do not. I condemn it.

AN HON. MEMBER: The hon. member's vote will show that!

MR. ROSE: My speech will show that while I speak against that I have a little common-sense, and my common-sense teaches me that the battle is won; that the precedent is already established; that the debate to-night shows that hereafter no minister dare do what the Attorney-General has done. Now, for a further consideration. We are approaching the time for passing the estimates. We have thousands of unemployed. What is to become of public business?

MR. INGLIS: I rise to order. I wish to know what the question of the unemployed has to do with the question before the House?

MR. SPEAKER: The hon. member is out of order, and he should confine his remarks to the notice of motion.

MR. ROSE: I wish to point out that we shall have established the one point necessary, that is, that there should be an amendment of the Railways Act. One hon. member holding a leading position in the House controverts the position held by the hon. member for St. Leonards as to what powers we have in connection with the railways. We have an hon. member sitting in his official chair and saying he has only a nominal power. The real question is whether our railways are for the future to be governed absolutely by the railway commissioners or whether they

shall come under the power of the Government. During the seven years' tenure under the act, to all intents and purposes the railway commissioners are relieved from political influence. One of the great duties of this Chamber is to vote supplies. How can you vote supplies when you dare not touch any of the salaries of the railway officials? What the House of Commons is supposed to cherish as a great right and not a privilege is entirely overturned here in the case of the railway commissioners. If any case arises here referring to the railway commissioners we are at once told that they are beyond political influence. I am on logical ground when I say that the question to be considered by the country is not whether two ministers have acted wrongly, but whether the railways are to be beyond the power of the Government.

Mr. SPEAKER: The hon. member is not now addressing himself to the question involved in the motion.

Mr. ROSE: I wish to show that according to the Railways Act the Attorney-General's hands are tied. What the country has really to decide is to define the powers of the railway commissioners, and whether they can put the colony to all sorts of expense in constructing a railway as well as carrying on administration. If they can engage counsel in London without consulting any ministry they are far and away over the heads of Parliament. In conclusion I would point out that not only do you protest against the action taken by the Attorney-General without going to a vote, but you also call public attention to the necessity of amending our Railways Act. I do not feel justified in taking up public time any longer. I am quite satisfied to give my vote on this side of the House. I decline to run away when my party is in danger. I stand by my guns, and I can go to the country conscientiously believing that I have taken the proper course.

Mr. LEVIEN (Tamworth) [10:14]: Once on a time there was an old politician, and the papers of the country published what he said if his sayings had a comical strain in them. One of his sayings was: "A bridge ag'in your own door." Another was: "He that says that he loves his neighbour better than himself is a liar, and the truth is not in him." These are two of his peculiar sayings.

[*Mr. Rose.*

Mr. SPEAKER: The hon. member will be good enough to debate the question before the House.

Mr. LEVIEN: With reference to this motion, we have heard a great deal about the consciences of hon. members, from the Attorney-General downwards. I think I can say that there is not one member of the House who will not say that those hon. and learned gentlemen, the Attorney-General and the Minister of Justice, ought not to have taken a brief from the Proudfoots. If a direct opinion had been asked by the House on that subject by a motion of that character I should have been one of the first to give my vote on it, and I believe the motion would have been carried. The hon. gentleman who has moved the resolution says that he was actuated by the highest and most patriotic motives. We hardly ever hear a man stand up in the House who is not actuated by the same thing.

Mr. NEILD: The hon. member is an exception!

Mr. LEVIEN: Yes; but if you want the Simon Pure look at the King of the Bulgarians! I take it that the hon. gentleman who moved this resolution was not actuated by the highest motives. His motives were these, and I say distinctly that the Minister of Justice —

Mr. NEILD: I rise to order. Is the question before the House the motives of the hon. member who moved the adjournment or the subject-matter of which he gave notice?

Mr. CRICK: Surely the hon. member is at liberty to reply to the argument adduced by another hon. member!

Mr. LEVIEN: On the point of order, the hon. member has stated distinctly that he moved this motion in the interests of the country, and from no other motives. Surely I have a right to show that he has other motives than those to which he referred?

Mr. SPEAKER: The hon. member knows that if one hon. member is out of order it does not follow that another hon. member is to be allowed to be out of order if objection is taken to it. If the hon. member did state what his motives were, if attention had been called to it he would have been ruled out of order as the hon. member is, now that notice is called to the fact that he is not in order. The question of which notice has been given is: to consider

the danger to the public interest arising from the declaration made by the Attorney-General on Friday to the effect that the Railway Department, as regards the Crown Law Department, has ceased to be a department of the Crown.

Mr. PERRY (The Richmond) [10-20]: I think the debate has proved that the standard of legal morality is considerably lower than that of other professions, and I think that no member of the House knows that better than the leader of the Opposition, yet we know this to be the only occasion on which he has raised his voice on what may be said to be legal immorality, and he has only raised his voice this time because he sees an opportunity to have a slap at the Government. If he is so virtuously indignant, I think he might have had many more opportunities for taking this course. It is simply a question of legal morality.

AN HON. MEMBER: There is not any!

Mr. PERRY: I do not think there is, because we find the leader of the Opposition using his railway pass to go on circuit. We also find a leading member of the bar, who is also in the Upper House, drawing from this country considerably more in the shape of pensions than ever he earned in his life when at the bar. Yet we find no one raising his voice against that sort of thing. With reference to the question before the House, I think that instead of the hon. member moving this motion, which will up-end everything in the shape of public business, he might have moved a resolution, and I am quite certain that every member of the House would have voted for it, to the effect that in the opinion of the House it is high time that the railway commissioners should not go to law without consulting the law officers of the Crown. I am inclined to think that the Attorney-General was wrong in accepting a brief from the Proudfoots; but I am not inclined to give a vote which will upset public business at the present time.

Mr. CHANTER (The Murray) [10-23]: The standing order under which this motion has been moved to-night requires the matter to be of a twofold character. It must be a matter of public importance and a matter of urgency. There can be no doubt that the hon. gentleman is perfectly justified in bringing this matter forward as a matter of public importance,

but I think from the debate which has already taken place that the element of urgency has entirely gone. The hon. gentleman says that his object in bringing this motion forward was to protect the country against a great wrong. It has been stated all round the House to-night, and there has been almost a consensus of opinion upon it, that from a layman's point of view there can be no doubt whatever that for any member of the Government to take any action which would have the effect of damaging the Crown is not the correct thing, but in this case that danger has been removed, because the Attorney-General and the Minister of Justice have practically admitted that they were wrong by throwing up their briefs. That alters the state of the case very materially. If the hon. member was actuated, as I believe he was, by a desire to promote the welfare of the country he has gained his object. He has caused those hon. and learned gentlemen to retire from the position in which they might possibly do some damage to the country. I should have liked the hon. member to have kept to the position with which he started, which was, that he was doing right for the country, but the moment he found that the threatened wrong had been removed he should have taken a different action from that which he is now taking. This question has degenerated from a question as to whether the railways are a department of the state to a movement to wreck the Government. I see before me now the hon. and learned member for South Sydney, Mr. Wise, who, I recollect when he was Attorney-General, had his action challenged by the Opposition, who, however, did not attempt to make a party move.

Mr. WISE: They would have lost it if they had; I challenged them to do it!

Mr. CHANTER: They were satisfied when they had called attention to the hon. and learned member's action.

Mr. WISE: I challenged them to go to a vote!

Mr. SPEAKER: The hon. and learned member knows that he is not in order.

Mr. CHANTER: The Opposition of that day were satisfied when they had called the attention of the House and the country to the transactions of the hon. and learned gentleman who occupied the position of Attorney-General. When the cause of dissatisfaction had been removed, they

did not attempt to make a party question of the matter, yet the hon. and learned gentleman went further than the Attorney-General has been charged with going on this occasion. He took a brief against the Crown, he being one of the guardians of the interests of the Crown. The hon. and learned member was charged with acting as Attorney-General, and marking his own brief.

Mr. WISE: On the contrary; I was charged with appearing for the Crown!

Mr. CHANTER: The hon. and learned member was charged with marking his own brief, and earning twice the amount of the salary which the House voted to him.

Mr. WISE: That is entirely incorrect!

Mr. SPEAKER: If the hon. and learned member for South Sydney interrupts again, I shall have him removed from the Chamber. The hon. and learned member's position entitles him to set an example to other hon. members, and he knows how disorderly these interjections are.

Mr. WISE: May I be allowed to explain?

Mr. SPEAKER: The hon. and learned member must recollect that he has a right of reply, as he has not yet spoken.

Mr. WISE: I should like to correct the hon. member as to his facts!

Mr. CHANTER: I was a member of the House at the time to which I have referred. I just wanted to draw a comparison between the action of the two parties, the Opposition of that day, and the Opposition of to-day. We cannot hide from ourselves the fact that this matter has degenerated into a party fight. To-night we are asked to vote for this motion. It is not an ordinary motion for the adjournment of the House. If an ordinary motion for adjournment were carried, the House would meet again to-morrow; but we know that if this motion is carried, the House will not meet again to-morrow. Whilst no man in the House condemns more than I do what was about to be done by the two legal members of the Government. I am going to look above that in giving my vote to-night. I am going to look to the interests of the country and they demand from me, for expediency's sake, that I should not give a vote which would disorganise the business of the country. I shall vote against the motion, because I know that in doing so I shall be doing what the country desires, and acting in its best interests. All the explanation that

could be given has been given. The hon. member for Tenterfield asks that ministers shall not act against the Crown. That was supposed to be his sole motive in moving in the matter, and he is now told that they are not going to act against the Crown. What more can any sensible man desire? If the hon. member, or any member of his party, will by bringing in a specific motion give the House an opportunity of removing the evil that has been done I believe that nine-tenths of the House will be with him. But he does not propose to do that, and he is attempting to blame the Government for acts which have been committed by members of every Government which has been in power during the last ten years. Of course hon. members opposite expect to obtain certain advantages from the course which they are taking; but I feel satisfied that the country demands of me that I shall vote against the adjournment, in order that the House may meet again to-morrow to transact its ordinary business.

Mr. C. A. LEE (Tenterfield) [10:31]:—

Mr. WILLIS: Will the hon. member give way? There are one or two words which I wish to say—

Mr. C. A. LEE: Two hon. members of the House have to-night grasped this question in a very clear and concise manner; they are the hon. member for Northumberland, Mr. T. Walker, and the hon. member for West Sydney, Mr. Kelly. What they stated is perfectly true, and the exact fact. As they have observed, if I had been permitted to approach the House with a specific motion it would have been within the province of hon. members to amend that motion, if they thought proper, or to reject it. That course, however, has been taken out of my hands, and I have been compelled to take the course which I followed to-night in order to vindicate what I consider the public interest. By way of contrast to the remarks of those hon. members, I was very much astonished at the position taken up by the hon. member for Eden, Mr. Garvan. He had not a word to say in commendation of the ministers whose names have been mentioned, and, indeed, condemns their action, which, he thinks, was altogether an improper one; but he is of opinion that the case would be fairly met by exonerating the occupants of the office and censuring the office stools.

[*Mr. Chanter.*]

I say that that is not the point. Suppose some unfortunate man in humble life were to steal a loaf of bread, perhaps more to allay the gnawing hunger of those dependent upon him than to satisfy his own, would that exonerate him in the eyes of the law? It is mere nonsense to try to dissociate these two things. The Colonial Secretary referred to me in not very complimentary terms. That does not signify very much to me, but I should like to say, in answer to what fell from the hon. gentleman, that I, and I alone, am responsible for the framing and the giving of notice of this motion. It rose instantly in my mind after the facts had been disclosed to the House, and it was owing to the circumstance that hon. members discussed to a protracted length a motion which preceded the calling on of the orders of the day, that I got the opportunity of giving notice of it that night. Before doing so, I had not spoken a single word or held any communication either directly or indirectly with the leader of the Opposition. Therefore, the remarks of the Colonial Secretary were unjust and unworthy of him. The Attorney-General, had he made a defence, would have given me something to reply to, but I regret for the sake of the country that he attempted to establish a defence which not one single hon. member, not even among his own colleagues, has upheld. He has been condemned by all sides of the House, and by his own colleagues. In that case, what need is there for me to offer any argument to rebut what he has said? He has answered himself. I regret, however, that he felt it incumbent upon him to descend from his high position to indulge in low and scurrilous abuse of myself, and to attempt to asperse my character, which was unnecessary. I will not sink to his level. I leave it to this country, where I have been known longer than the Attorney-General has been known, and I will take their verdict upon my actions in preference to his. The hon. member for Balranald comes to me with his weak-kneed advice. He apparently is unable to see the point at issue at the present time, and advises me to pose before the country as a poltroon. I tell the House and the country, however, that I shall go on with this matter to its logical end, and I ask the House to express an opinion upon it. I

consider that I shall not do my duty if I stop short of that. I tell hon. gentlemen who feel weak-kneed in this matter that the motion is so clearly cut and concise, that it provides no parliamentary niches in which to shelter from the discharge of an obvious duty, it erects no pillars behind which to crouch from the keen scrutiny of public opinion. It points to the high pedestal of public life, and the singleness of purpose of those who sit there. It is intended to mark the grave displeasure of Parliament upon ministers of the Crown who have declared that the great state departments can be converted into a private concern; it is intended to act as a finger-post to denote to ministers of the Crown that they shall not make their ministerial offices subservient to private interest, and it is intended to place on record that ministers of the Crown in this country, so long as they act in that capacity, shall devote their great talents to the service of but one master, and that master is the public interest.

Question put. The House divided :

Ayes, 69 ; noes, 48 ; majority, 21.

#### AYES.

Abbott, Joseph	Inglis, J.
Allen, A.	Jones, R.
Bavister, T.	Kelly, A. J.
Black, G.	Kirkpatrick, J.
Brown, E. G.	Langwell, H.
Brunker, J. N.	Lees, S. E.
Burdekin, S.	Lonsdale, E.
Campbell, A.	Marks, J.
Cann, J. H.	Martin, J.
Carruthers, J. H.	McCourt, W.
Clark, G. D.	McCredie, G.
Cook, J.	McMillan, W.
Cullen, J. F.	Molesworth, E. W.
Cullen, Dr. W. P.	Morton, P. H.
Dale, D.	Neild, J. C.
Danahey, C. J.	Newman, H. W.
Darnley, E.	Parkes, Sir Henry
Davis, T. M.	Rae, A.
Dawson, H.	Reid, G. H.
Dickens, E. B. L.	Schey, W. F.
Donald, G.	Scobie, R.
Edden, A.	Smith, S.
Eve, J.	Stevenson, R.
Farnell, Frank	Taylor, H.
Fegan, J. L.	Tonkin, J. E.
Fitzgerald, J. D.	Traill, W. H.
Fuller, G. W.	Walker, T.
Gardiner, A.	Wall, W. C.
Garrard, J.	Williams, T. H.
Gould, A. J.	Willis, W. N.
Hart, J. S.	Wise, B. R.
Haynes, J.	Young, J. H.
Hindle, J.	<i>Tellers,</i>
Hollis, Dr. L. T.	Lee, C. A.
Houghton, T. J.	Parkes, V.



	NOES.
Barbour, R.	Kidd, J.
Barnes, J. F.	Levien, R. H.
Barton, E.	Lyne, W. J.
Bowes, J. W.	McFarlane, J.
Brown, H. H.	Morgan, J.
Chanter, J. M.	Murphy, W. A.
Clarke, F.	Newton, J.
Clarke, H.	Nicholson, J. B.
Collins, C.	Nicoll, B. B.
Colls, T.	O'Sullivan, E. W.
Copeland, H.	Perry, J.
Crick, W. P.	Scott, D.
Cruikshank, G. A.	See, J.
Dibbs, Sir George	Sharp, W. H.
Donnelly, D. C. J.	Sheldon, J.
Fitzgerald, R. G. D.	Slattery, T. M.
Garvan, J. P.	Suttor, F. B.
Gough, J. G.	Torpy, J.
Grahame, W.	Waddell, T.
Hassall, T. H.	Wilkinson, R. B.
Hayes, J.	Wright, F. A.
Hogan, P.	
Hutchinson, G. F.	<i>Tellers,</i>
Hutchison, A.	Dowel, W. S.
Johnston, J.	Rose, T.

Question so resolved in the affirmative.

House adjourned at 10'48 p.m.

## Legislative Assembly.

Friday, 8 December, 1893.

Ministerial Crisis : Prorogation.

Mr. SPEAKER took the chair.

### MINISTERIAL CRISIS : PROROGATION.

Sir GEORGE DIBBS (The Murrumbidgee), Colonial Secretary [4'31] : In view of the vote arrived at last night, I think it would be prudent to delay the answers to questions. Perhaps other hon. members may have an opportunity to answer them. While on my feet, Mr. Speaker, I may as well say a few words as to the vote of last night, and I have no doubt that in the few words I shall utter I shall have the quiet ear of hon. members. Immediately after the vote arrived at last night, which could only be considered by me

as a snatch vote, a very carefully prepared impromptu on the part of the leader of the Opposition — immediately that vote was arrived at I received from the Attorney-General and the Minister of Justice the resignation of their offices. I may tell the House that the question of what is to be done with those resignations is a matter for further consideration by the Government. The Cabinet has had a long discussion upon the position of affairs, and if we had consulted our own personal desire, our own personal comfort, and to a certain extent our own personal respect, we should at once have placed our resignations in the hands of his Excellency the Governor ; but there are other questions for public men to consider, and when the welfare of a great country like this is at stake, public men must be prepared to sink their personal feelings in view of their public duty. After a careful consideration of the whole question, I think it must be notorious to every thinking man in the community, except to those who voted against the Government last night, that a change of government, even if it were possible at the present moment, would bring chaos and confusion upon the country, probably terminating in national disaster. Under these circumstances it has become the duty of the Government, in a patriotic desire to serve the country, to hold their seats in this Parliament until a fitting time arrives to obtain supplies for the public services of the country. This House will be invited to meet again on the 16th January next for the purpose of granting supply to carry the public services through a general election. It will be the pleasure of the Government, after that election has taken place, and if the voice of the country is not with them, to receive that condemnation which hon. members opposite are so anxious to visit upon them. It now becomes my duty, Mr. Speaker, to place in your hands the proclamation proroguing Parliament.

Mr. SPEAKER thereupon left the chair.

### PROROGATION.

PARLIAMENT was prorogued by proclamation, dated 8th December, 1893, until 16th January, 1894 (*Government Gazette*, No. 842).

*Handwritten signature/initials*