

We have had three or four applications, and different works have been suggested by each applicant. That shows the necessity for securing the services of a really good man.

Vote agreed to.

#### Miscellaneous Services.

Proposed vote, £10,000.

Mr. KIDD said that this vote provided for the administration of the Pastures and Stock Protection Act. A board under that act was appointed some time ago for the county of Cumberland, because a few hares and rabbits got into the orchards. Instead of those who were interested subscribing to meet the cost of protecting themselves, by the appointment of this board the cost was thrown upon the stockowners of the country, who had to pay 2s. 6d., and afterwards 1s. per scalp for hares brought down from Bathurst into the county of Cumberland. He hoped the Secretary for Mines would put an end to this manifest injustice.

Mr. S. SMITH: I will make inquiry into the matter.

Vote agreed to.

Progress reported.

#### ADJOURNMENT.

##### PRIVATE BUSINESS.

Motion (by Mr. McMILLAN) proposed: That this House do now adjourn.

Mr. GARRARD asked if it was the intention of the Government to give up next Tuesday for private business?

Mr. McMILLAN, in reply: It has come upon me quite as a shock that the hon. member should ask for Tuesday for private business, consequently, it will require further consideration.

House adjourned at 12.45 p.m. (Friday).

## Legislative Council.

Tuesday, 3 September, 1889.

Consolidated Revenue Fund Bill (No. 6)—Blackfriars and Shepherd's Nursery Estates Bill—Crown Lands Bill—Parliamentary Representatives Allowance Bill (second reading).

The PRESIDENT took the chair.

## CONSOLIDATED REVENUE FUND BILL (No. 6).

Royal assent reported.

## BLACKFRIARS AND SHEPHERD'S NURSERY ESTATES BILL.

Bill read the third time.

## CROWN LANDS BILL.

In Committee (consideration resumed from 29th August, *vide* page 4614).

Clause 9. In any case it shall be lawful for the president of the land court or the chairman of any land board to summon and compel the attendance of any person whose evidence such court or board may desire to hear, and to examine him, or allow him to be examined upon oath, and to cause his examination to be reduced to writing and signed by him, and require him to produce any document in his possession or control. No question put to any witness before the land court or any land board shall be deemed to be unlawful by reason only that the answer thereto may expose him to any forfeiture or penalty under this or the principal, or any repealed act: Provided that no examination, or any answer thereto, shall be admissible in evidence against the witness in any criminal proceedings for an offence against the provisions of this or the principal, or any repealed act, 20 other than on a prosecution against him for perjury.

Upon which Mr. Simpson had moved as an amendment:

That the following words be added to the clause:—"If any person summoned as aforesaid by the chairman of the local land board, or subpoenaed as a witness in any proceeding before such board, shall fail to appear when called, or refuse to be sworn or to make affirmation, promise, or declaration in lieu of an oath, or to answer any lawful question put to him by or before such board or chairman, or to sign his examination when reduced into writing, or to produce any document in his possession or control, it shall be lawful for the said chairman, by warrant under his hand, to cause him to be apprehended and detained, and to be brought before the local land board, or (in the case of any refusal as aforesaid) to be kept in any gaol, prison, lock-up, or other place of detention, there to remain without bail until he submit to be sworn or make 20 affirmation, promise, or declaration as aforesaid, or to answer such lawful question, or to sign such examination, or to produce such document, and shall have signified such submission to the said chairman, and the said 25 chairman shall have, under his hand, otherwise ordered and directed. In any such case as aforesaid, a warrant in the form appropriate thereto contained in the fourth schedule to this act, or to the effect thereof shall 30 be valid and sufficient in law; and the sheriff, his deputy and assistants, and all officers of

- the police force, and gaolers, to whom the same shall be addressed, shall obey the same.
- 35 Provided that no such warrant shall be issued against a person who fails to appear when called unless it be proved to the satisfaction of the chairman of the local land board that he has been duly served with a summons or
- 40 subpoena, and that payment or tender of his reasonable expenses has been made to him."

Mr. DE SALIS said the proposal embodied in the amendment would be much more fitly inserted in the bill which had been promised to provide the salaries for the members of the land court, and, he hoped, for the members of the land boards. The same bill might very well provide what salaries they should be paid, and also fix their duties. He thought the powers of a district court judge should be given to the land court, and the powers of courts of petty sessions to the land boards, without all the rigmarole that merely disfigured the bill. He therefore suggested that the amendment should be negatived, and inserted in its proper place in the bill which had been promised.

Mr. H. C. DANGAR agreed with his hon. friend that it was extremely undesirable to give irresponsible boards—for so they were so far as that particular branch of the law was concerned—the enormous powers sought to be conferred by the amendment. Hon. gentlemen did not seem to realise that it was proposed to give the boards all the powers of a criminal court should any person, perhaps for a very good reason, refuse to swear or make an affirmation or declaration or to answer any questions which the land board might consider lawful. He had good reason to know that the administration of the land boards had been of a very arbitrary, and in some cases of a very harsh, character, and he, for one, was not inclined to delegate the enormous powers of that amendment to the boards. He did not object to the land court having some authority of the kind; but he did not think such powers should be conferred on the gentlemen who, as a rule, composed the boards. Even the fact that the chairman of the board was required to be a magistrate hardly gave sufficient guarantee for the proper exercise of the authority. He thought it was a new departure from the practice which had hitherto been in vogue with regard to the land boards; and he had it in his mind to ask whether the amendment was in order. He thought we

were discussing the land law, and not criminal law, and this was a matter relating altogether to criminal law. He thought the Committee would act wisely in rejecting the amendment.

Mr. SIMPSON said his hon. and learned friend was quite right in saying that the amendment was to a certain extent a departure from the established practice. It was a departure to this extent—that there was a form of warrant prepared which, if the amendment was passed, would be afterwards inserted in the schedule, under which the chairman of the land board might deal with witnesses who, having been summoned to attend, did not attend, or refused to answer questions. Further, there was an extension of power given to the chairman of the land board to deal with people who insulted the land board, or who were guilty of contempt. He admitted that the land board was not a court in the ordinary acceptance of the term; but it was, after all, a court of inquiry, and as the 9th clause of the bill provided that the chairman should have power to compel the attendance of witnesses, some power must be given by which their attendance could be compelled. It was of no use saying that they were to have the power to compel the attendance of witnesses without pointing out how they were to compel them. Now, as to how far the provision was a departure from the present law, he left hon. members to judge. Under the 14th section of the principal act:

(i.) Every such board shall have power to hear and determine all complaints and other matters brought before it and shall conduct all inquiries sitting as in open court and shall take evidence on oath and its procedure while so sitting shall be the same as the procedure before a court of petty sessions.

(ii.) The chairman of every such board shall be a justice of the peace by virtue of his office and shall have and may exercise the like powers and authorities as are possessed by a court of petty sessions to summon and compel the attendance of witnesses to give evidence on any matter before the board and to produce all deeds and documents in their possession or under their control relating to such matter. And all witnesses so summoned to attend shall be entitled to the like allowances for attendance and travelling expenses as witnesses attending a district court are by law entitled to.

Hon. members would see that land boards at the present time had power to summon and compel the attendance of witnesses to give evidence on any matter, and that the

chairman of a land board had and might exercise the powers and authorities which were possessed by a court of petty sessions. The powers and authorities possessed by a court of petty sessions were defined in page 425 of "Wilkinson's Australian Magistrate" as follows:—

Should a witness, upon appearing in obedience to a summons or warrant, refuse to be examined on oath concerning the matter for which he was called upon to appear and give evidence—or should he refuse to take the oath—or, having taken the oath, to answer such questions as shall be put to him, any justice then present having jurisdiction, unless the witness offers some just excuse for his refusal, may commit him to gaol for not exceeding seven days, section 7; and section 8 of 17 Victoria, No. 39, provides that, where justices have power to summons any person as a witness, they shall have the like authority to require and compel him to bring and produce, for the purpose of evidence, all documents and writings in his possession and power, and to proceed against every such person, in case of neglect or refusal, as in any case of neglect or refusal to attend, or refusal to be examined: Provided that no person shall be bound to produce any document or writing not specified or otherwise sufficiently described in the summons, or which he would not be bound to produce upon a *subpoena duces tecum* in the Supreme Court.

A board, therefore, by virtue of the 14th section would have power to summon and compel the attendance of witnesses, and in case of any disobedience, or in case of any refusal to answer questions, unless there was a proper excuse, they could commit a witness to gaol for a period not exceeding seven days. Under his amendment, if in any proceeding before a land board a witness should fail to appear when called, or refuse to be sworn, or make affirmation, promise, or declaration in place of an oath, or to answer any lawful question, or to sign his examination, or to produce any document in his possession or control, the chairman might cause him to be apprehended and detained, and brought before the board, or, in the case of any refusal, to be kept in any gaol or other place of detention until he submitted to be sworn or make such affirmation, promise, or declaration. There was no departure there from the powers at present possessed by magistrates.

Mr. H. C. DANGAR: Yes, there is. They can keep a man in gaol for an indefinite time!

Mr. SIMPSON said there was that power; but it could be altered. The com-

mittee might say that a man was to remain not longer than seven days; but no advantage would be gained by that alteration, because if there were an obstinate witness, or a witness whose only desire was not to answer questions, it might be worth his while to remain seven days in gaol. He wished to impress on the Committee that the boards of inquiry would have very delicate and very difficult matters to decide, and it was absolutely necessary, if they were to get at the truth, that they should have absolute power to compel the utterance of truth. Innocent people had nothing to fear; it was only those who did not want the truth to come out who had anything to fear. It might be a matter involving £1,000, or the honor of a pastoral lessee, or the honor of a selector, or the honor of somebody interested in the administration of the land law, and if we limited the power of the board simply to send a man to gaol for seven days we should defeat one of the main objects of the Land Act. Under the Justices Act power was given to justices to deal with a witness who refused to sign his depositions. That was provided for in the amendment; but there was a form of warrant in the schedule, and it was not at all likely, whatever might be the constitution of the land court, that the land boards would be composed of lawyers, and therefore it was necessary that there should be a form of warrant to send a man to gaol, otherwise they might draw up a warrant which, when tested, would not hold water, and they might render themselves liable to an action simply because they had not acted strictly in accordance with the law. If the Committee decided to give them the power, which at present they seemed to possess, of sending to gaol a witness who would not sign his depositions, or a witness who would not attend, then it was desirable that there should be a form of warrant, so that no action could be maintained against the members of a land board because they had not acted strictly in accordance with law.

Mr. TRICKETT said that under section 10 of the Public Works Act very similar powers were given to the members of the Public Works Committee with regard to witnesses. It was strange, however, that the procedure under that act had not been adhered to in the present

bill: a different provision altogether had been framed. The provision in the Public Works Act seemed much more reasonable; it gave the members of the Public Works Committee power to punish for contempt, but not to order absolute imprisonment. If a witness were perverse or insulted the committee, or did not produce a document, the committee could inflict a fine of £50. But under the bill a land board was given power to imprison without the option of a fine. It would be necessary to insert a provision similar to that in the Public Works Act in reference to the non-attendance of witnesses who had been summoned to appear before the board. In the Public Works Act there were these words, which ought to be added to this clause:—"And unless it be proved that such person's non-appearance be without just cause or reasonable excuse," &c.

Mr. KATER said that as the words "relating to the matter in question" had been inserted in the 9th clause, they ought also to be inserted in the amendment. He thought that they ought to be inserted after the word "document," line 12.

Mr. SIMPSON thought it right that the words should be inserted; but they ought to be put in after the word "control," line 13.

Amendment (by Mr. KATER) agreed to:

That the words "relating to the matter in question" be inserted after the word "control," line 13.

Mr. W. LAMB wished to move an amendment, which he thought would have the approval of all parties. It was highly undesirable that any one who failed to appear before the board when summoned should be put in gaol, especially as the individual might not be in any way blamable. He moved:

That the words "or to be admitted on bail at the discretion of the chairman" be inserted in the proposed amendment after the word "bail," line 20.

Sir WILLIAM MANNING was afraid that the amendment would be useless. It was of no use providing that the board should send for witnesses and examine them unless the board had power to enforce their attendance. Some power of this sort was, therefore, absolutely necessary for the purpose of giving effect to the clause—especially as the evidence would almost

invariably be taken by the land board, subject to appeal by the land court, who ordinarily would not take evidence, although they had power to do so if they thought fit. Before there could be an appeal, evidence must be taken, and a decision must be given, therefore, there must be power to enforce the giving of evidence, and that must be done by the land boards. He would be very glad if the necessary power could be given to the land boards without resort to extreme courses; but it was difficult to see how it could be done. If a witness were recalcitrant, what was to be done with him? The hon. member, Mr. W. Lamb, proposed that he should be admitted to bail. For what purpose? In ordinary criminal cases, a prisoner was admitted to bail to appear at a certain time and place to take his trial. But what was the object in bailing a witness who refused to answer a question? The only possible object would be to give him an opportunity to change his mind by the next sitting of the board. But supposing he had not changed his mind, but still refused to answer the question, were the board to admit him to bail again? Evidently that would not do. If the land board was to be a court, it must be endowed with efficient power; and it appeared to him that the proposal to admit a recalcitrant witness to bail would leave it powerless to carry out its duties. He would be very glad if we could discover some modified way of enabling the court to obtain the necessary evidence in such cases; but as far as he could see there was none; and it would not do to make the law a laughing-stock.

Mr. SIMPSON said that the hon. and learned member, Sir William Manning, had stated the objections to the amendment of the hon. member, Mr. W. Lamb, in much the same manner as he should have done himself had he spoken first. The hon. member, Mr. W. Lamb, was altogether under a misapprehension in speaking of a man being sent to gaol because he had been detained on the road, or was unable for some other reason to appear before the land board. The fact was that his amendment had no reference whatever to a witness who did not attend. It only referred to a witness who did attend, and being obstinate, refused to answer ques-

[Mr. Trickett.

tions. What was the use of saying that such a person might be admitted to bail? If he went to gaol, he was detained until he answered the question; but if admitted to bail, he would merely have to obtain two bondsmen, and might never answer the question at all; and the intention of the act would be thus evaded. There was a good deal of force, no doubt, in what the hon. member, Mr. Trickett, said about the amendment being a departure, to some extent, from a similar provision in the Public Works Act. He was not responsible for that, however, as he gave instructions to the draftsman in drawing the bill to follow the words of the Public Works Act; and he regretted that that had not been done. There was not much difference between the two provisions, however, except that under the Public Works Act the warrant was to be issued if the committee were satisfied that the person whose attendance was required, and who failed to attend, had no just cause or reasonable excuse for his absence. He remembered that when the point was under discussion in connection with the Public Works Committee, it was a question whether it should be made a condition precedent to the issuing of the warrant that the Committee should be satisfied that the absence of the witness was without just cause or reasonable excuse. It appeared to him that it was difficult to prove that the non-attendance of witnesses was without just cause or reasonable excuse; and if we threw that obligation upon the person who issued the warrant, the probability was that no warrants would be issued at all.

Mr. DE SALIS said that high judicial authorities had laid it down that the courts of justice were bound, in all cases except that of murder, to admit a prisoner to bail; but here it was proposed to allow a court, with the status of a court of petty sessions, to commit a man to gaol without bail for an indefinite time, merely for refusing to give evidence. Such a proposal was perfectly preposterous. It was virtually a return to mediæval days, when men were subjected to torture for refusing to give evidence. A much simpler means of compelling a witness to speak out would be to revive the old practice of torture. It would be preposterous to legislate in that manner in a land bill. Was it not quite sufficient to give the boards the

powers of courts of petty sessions, which, as the hon. the Attorney-General himself had pointed out, were quite adequate? If that were not sufficient, then let the president of the land court be made a judge, with sufficient salary to make him independent, and then he would not object to some extra power being given. The power proposed to be given by the amendment was most un-English. The offence was really nothing but a parliamentary offence. In reading "*Bryce's Commonwealth*" he found that the United States had made many artificial crimes. For instance, a man who had had a duel was not allowed to sit in the House. In the backwoods that was simply laughed at. Then, again, "*lobbying*" was made a high crime and misdemeanour; but that, too, was simply laughed at. Surely that was a graver offence than the one for which it was here proposed to upset English law of every description. The best plan would be to deal with the matter in the bill which had been promised.

Mr. J. SMITH said his hon. friend was mistaken in supposing that the case dealt with in the amendment was to be compared with cases of bail which came before courts of petty sessions. In those cases the time and place were fixed; here it was a matter of answering questions. What was the use of holding a court to take evidence if people would not give evidence? The power was necessary if the courts were to be held at all.

Mr. H. C. DANGAR said his hon. friend seemed to have very peculiar ideas about the serious nature of the penalties involved in the amendment and about the rights of the subject. It was proposed to give irresponsible boards the same powers as were exercised by justices, and a man might be committed to gaol on the most frivolous pretences. He regarded commitment to gaol as a very serious matter: It must not be lost sight of that the board was only a court of inquiry into a special civil matter, not a criminal matter; and if a recalcitrant witness declined to answer questions or to produce a particular document, the probable result would be that the board would decide against him, if he were the principal, or, if not, against the person he wished to serve. That ought to be sufficient safeguard without resorting to the extreme step of committing

a man to one of the hateful lock-ups which abounded in some parts of the interior. It was a very serious matter that for the infinitesimal offence of refusing to produce a document—perhaps for very good reasons—a document which might be demanded in the most arbitrary and summary way—a man should be committed to gaol. It would be quite sufficient to empower the board to detain a man during the investigation or until he had given in his submission. He would suggest to the Attorney-General that it would be better to alter the amendment so as to make it read “apprehended and detained during the investigation of the particular matter in dispute or until he shall have signified his submission to the said chairman,” &c. He made that suggestion in deference to the contention that it was necessary to give the boards some means of carrying out their investigations. It would be far better than allowing them to send to gaol a man who perhaps was quite justified in refusing to answer a question or produce a document. He might say, “The document has nothing to do with the matter, and I refuse to produce it”; or he might say he had not got it; and if the chairman chose to disbelieve him he would have to go to gaol. He had never been in a lock-up; but he had heard bad accounts of them, and he would sooner submit to any infliction of star chamber tyranny than undergo the penalty of confinement in a lock-up. He hoped that the words would be omitted, and that some words equivalent to his suggestion implying simple detention would be inserted in their place.

Mr. SIMPSON said that if power were given to a chairman to order the detention of a man who would not produce a document, or answer a question, or sign his examination during the investigation of the matter in dispute there would be only power in many cases to order the detention of a man for an hour, or two hours. The land boards, he supposed, would get through ten cases in a day. A land board, for instance, might be engaged for only an hour in investigating a small matter; but what would be the result if the amendment of the hon. member, Mr. W. Lamb, were carried? A person, for some reason or other, would not answer a question or produce a document which might be the

most important in the case; but the chairman could only say to the man, “You must be detained in gaol or lock-up so long as I am investigating the case, which may be from 11 o’clock until 1 o’clock, or all day.” What was the use of a power of that kind? It was no power whatever. He had no desire to give unnecessary powers; but his desire and the desire of the Government was to give all necessary powers. He should certainly oppose the amendment suggested by the hon. and learned member, Mr. H. C. Dangar, which he hoped would be rejected; for the chairman might as well have no power at all. He was willing to accept an amendment which would be moved by the hon. member, Mr. Trickett, at the end of the clause, providing that no warrant was to issue against a person who failed to appear unless it were shown that his appearance was without just cause or reasonable excuse. On the whole, he thought it only right and fair to make such a provision, because a man might fall off his horse, have a fit, or be struck with lightning, and he might be improperly and unjustly apprehended. It had been suggested that possibly a witness might not have the document with him, or might have lost it. The power of the chairman was to send a person to gaol who would not produce a document not which he had lost, but which was in his possession or control.

Mr. H. C. DANGAR : Suppose the chairman says, “I do not believe you”?

Mr. SIMPSON : The chairman must be satisfied before he could send a man to gaol that the document was in the man’s possession or under his control.

Sir WILLIAM MANNING : Under his control there?

Mr. SIMPSON said that the man who could but would not produce a document must be made to do so. It would not do to limit the power to cases where the document was under the control of a witness in the court, because he could defeat the board by saying, “I left it at home; I will not bring it.”

Sir WILLIAM MANNING would suggest to the Representative of the Government to withdraw the clause for the present, and to think over it a little. The early part of the clause was a mistake, and the proper way to correct the mistake was not to run in something at the end. No

[Mr. H. C. Dangar.

person should be arrested for not appearing as a witness, unless he had refused or neglected to appear. A man, for instance, might fail to appear because he had been thrown off his horse, and, in order to issue a warrant in a case of that kind, the chairman was bound to be satisfied, not conclusively, but *prima facie*, that there had been a refusal or neglect. He thought that the provision ought to be altered; but he did not think that the amendment would meet the case. With regard to documents, he would point out that the documents must be there. A man ought not to be punished for contempt for not producing a document some hundreds of miles off; and, in order to be there, it must either be there by chance or in consequence of a subpoena to produce. There was no provision in the clause for a subpoena to produce a document. It was quite clear that a man could not be committed to custody for not producing a document for which there was no subpoena to produce, unless the document were seen in the court, and the man would not produce it. But, ordinarily speaking, in all the courts of justice a subpoena to produce was required. If a man had full notice that a document was wanted—and the notice might be of a very general character—and he said, "I have not brought it, and I shall not produce it if I do," he should be committed to gaol. The clause was imperfect, and he suggested it would be better to withdraw it and have it fully considered.

Mr. DE SALIS thought that the Attorney-General would do well to take the advice of his hon. and learned friend, Sir William Manning. The inquiry before a land board sank into insignificance compared with an inquiry before a select committee. If a witness who was summoned to give evidence before a select committee of the House refused to give that evidence, he was liable to a certain punishment. And if a witness before a land board inquiry did not give proper evidence, he should also be punished; but do not let him be punished too severely—do not let him be detained the whole of his lifetime possibly in prison. As for saying that the detention would only last during the sitting of the land board, it was nothing of the kind, because the land boards could and did adjourn for a month, and during the whole of that time the person who was

not guilty of any crime would be confined in prison. The Insolvency Act expressly provided that before the court could do anything it must be satisfied whether the excuse was justifiable or not; but under the proposed amendment of the Attorney-General, without any inquiry of that kind, a person was to be put in gaol and kept there from one adjournment to another. He knew an instance where a poor unfortunate Chinaman was kept two or three months in gaol under such circumstances. He thought it was well to guard against a case of that kind. A magistrate already possessed the powers and authorities possessed by a court of petty sessions; and we were promised a measure which would make the members of the land court, and the members of the land board independent. He contended that before we passed the amendment of the Attorney-General, the representatives of the Government should reconsider the matter. He hoped that the advice of the hon. and learned member, Sir William Manning, would be taken.

Mr. SIMPSON thought that on the whole the suggestion of his hon. and learned friend, Sir William Manning, was one that he ought to follow. It was too late now to postpone the clause, because it had already been amended; but he would consent to his amendment being negatived, with a view to move another amendment, in which he would follow as nearly as he could the provision in the Public Works Act.

Mr. W. LAMB was quite prepared under the circumstances to withdraw the amendment to the amendment, although he was not quite in love with the penal clause in the Public Works Act.

Amendment to the amendment, by leave, withdrawn.

Amendment negatived; clause, as amended, agreed to.

Clause 18. Notwithstanding anything to the contrary in section twenty-four or forty-two of the principal act, it shall be lawful for the Governor, subject to the general provisions of section twenty-four as aforesaid, to pro-5 claim, and set apart, from time to time, special areas; in which it shall be lawful to conditionally purchase such areas as may be notified in the proclamation, not exceeding three hundred and twenty acres in the east-10 ern, or six hundred and forty acres in the central or western division. It shall also be lawful for the Governor, by notification in

the *Government Gazette*, to proclaim and set  
 15 apart as special areas any lands within the  
 suburban or population boundaries or popula-  
 tion areas of any cities, towns, or villages,  
 and such lands (without cancellation or revo-  
 cation of such boundaries or areas) shall, not-  
 20 withstanding anything to the contrary in the  
 principal act, be open to conditional purchase  
 on or after such dates, and in such areas, and  
 subject to the payment of such deposits, and  
 such instalments, and subject to the fulfilment  
 25 of such conditions as to residence, improve-  
 ments, fencing, or otherwise, as may be speci-  
 fied in the proclamation. Any conditions so  
 set forth shall have the force of law, and any  
 breach thereof shall render the conditional  
 30 purchase liable to forfeiture in accordance  
 with this act or the principal act. The Gov-  
 ernor may at any time by notification in the  
*Gazette* revoke or modify any proclamation,  
 before or after the commencement of this act,  
 35 of any special area, or of any conditions ap-  
 plicable thereto, before any special areas are  
 declared to be open for conditional purchase  
 the same shall be surveyed and shall be taken  
 as surveyed.

Mr. H. C. DANGAR thought that the  
 word "in" after the word "areas," line  
 7, ought to be taken out and inserted  
 after the word "purchase," line 8. All  
 the special areas which it was proposed to  
 throw open to conditional purchase were  
 to be measured portions, and it would be  
 better to say that it should be lawful  
 "to conditionally purchase in such areas  
 as may be notified;" than to say "it shall  
 be lawful . . . to proclaim and set  
 apart from time to time special areas in  
 which it shall be lawful to conditionally  
 purchase, &c." If the clause were amended  
 in the way that he suggested every one  
 who was going to make a selection would  
 know exactly what area he could take. It  
 was evidently intended by the framer of  
 the clause that the portions to be taken  
 up should be measured. He did not see  
 any necessity to proclaim areas of indefin-  
 ite size in which land might be selected.  
 What he wanted to provide for was that  
 the veritable special areas which might be  
 selected should be proclaimed. He moved:

"That the word "in," line 7, be omitted; and  
 that it be inserted after the word "purchase,"  
 line 8.

Mr. W. H. SUTTON: As far as I can  
 understand, there is no objection to the  
 amendment.

Amendment agreed to.

Dr. GARRAN moved:

"That the following words be inserted after the  
 words "western division," line 12:—"All ex-  
 isting reserves revoked after the passing of this  
 act shall be proclaimed special areas."

He said that the object of this amend-  
 ment was to prevent the reserves from being  
 gambled and scrambled for, and sold at a  
 price far below their value. We had  
 already had experience of this kind of  
 thing in the country. Many reserves had  
 been thrown open, and those who were  
 acquainted with what had taken place  
 could explain how those lands had been  
 disposed of. When a reserve was thrown  
 open there was a great rush for land, and  
 we had no guarantee of the *bona-fides* of  
 the applicants for it. The applicants were  
 generally speculative land purchasers.  
 There was public land to be competed for,  
 and the man who was lucky enough to  
 get it knew that in five years' time he  
 would be able to sell it for a deal more  
 than he had given for it. The object  
 of the amendment was to secure for  
 the Government what was now called the  
 unearned increment. The reserves were  
 specially valuable, and it was a principle  
 of our law that where land was specially  
 valuable it should be withdrawn from sale  
 at the ordinary rate. We dealt in that  
 way with town lands and with suburban  
 lands, and we ought, in justice to the  
 Treasury, to deal in a similar way with  
 these reserves. The object of throwing  
 open these valuable lands was, if possible,  
 to secure settlement; but to throw them  
 open, and have them scrambled for at the  
 upset price was not the way to do that.  
 We ought to say to the selector, "If you  
 will take the land at its real value, you  
 can have it on free selection terms. We  
 are going to let you select the land at its  
 real value; not to allow you to make  
 money by getting the land at less than  
 its value, and then selling it." Over and  
 over again it had been found that land  
 thus scrambled for had been sold at a  
 higher price than that at which it was  
 purchased by the selector. Our object ought  
 to be to do justice to the country, and to  
 promote *bona fide* settlement. It might  
 be said that if all the reserves were thrown  
 open, the quantity of land available for  
 selection would be greatly in excess of  
 the requirements of the people; but there  
 was a provision in the clause which gave  
 the Minister power to revoke or modify  
 any proclamation, and thereby to with-  
 draw portions of reserves from special  
 areas if he thought it advisable to do so;  
 so that the power to correct any error of



that kind remained amply in the Minister. That being the case, it would be better to treat all reserves as specially valuable, and on revoking them declare them special areas, when they would come under the special area treatment. If they were not required for settlement in that way, the proclamation making them special areas could be revoked.

Mr. W. H. SUTTON: I think it would be better to leave the matter to the discretion of the Minister. The course pursued will be this: an officer will report on each reserve, and no reserve will be revoked until it is reported on. The Minister will receive these reports, which will show whether the land is required for settlement, its value, and so on, and by them he will be guided as to which reserves shall be declared special areas. There is a great deal of land included in reserves which is unsuitable for agriculture, and I think it would be better to leave it open to the Minister to exercise his discretion.

Mr. J. SMITH thought the proposal of the hon. and learned member, Dr. Garran, was a very reasonable one, and that the Government ought to accept it. The reserves were made for special reasons, such as accessibility to water, and if, where that was the case, they were thrown open to indiscriminate selection, a man would go and select a portion of land which would give him possession of the water. He knew a case in which a man in that way secured the only water within 40 miles, and consequently he was able to command the whole country. Why should a selector be allowed to monopolise the water? He did not approve of the suggestion of the Vice-President of the Executive Council to leave the matter to the discretion of the Minister. We knew what pressure was brought to bear on the Minister. In several instances within his knowledge persons had knowingly selected on reserves, and remained there in defiance of notices from the department, yet their selections were afterwards validated by act of Parliament. He agreed with the hon. and learned member, Dr. Garran, that the reserves, when revoked, ought to be made special areas, and dealt with accordingly. They should be surveyed and laid out in farms; roads should be provided, and access to water given to every

farm. It was very necessary that a stop should be put to the practice of picking out the eyes of the country.

Mr. SIMPSON hoped the Committee would pause before accepting the amendment, because if it were carried he did not know where in future land would be found in sufficient quantities for the purpose of selection. The pastoral lessees had already received considerable concessions.

Mr. H. C. DANGAR: Oh, oh!

Mr. SIMPSON quite expected to hear some of the pastoral lessees say "Oh, oh!" or "No, no!" But, as he had said the other night, if the 43rd clause, as amended, were accepted by the Legislative Assembly, the pastoral lessees in the western and central divisions would receive concessions even greater than those received by the lessees in the eastern division. Hon. members, particularly pastoral lessees, must look ahead a little. In the debate on the bill in the Assembly, grave objection was taken to the extension of leases at all in the central division, and possibly when the 43rd clause was reconsidered in the other House, it would be swept away altogether. It had even been proposed that there should be a division of leases in the central division; but, in opposition to that, the Secretary for Lands said there would be a great deal of land open to selection for many years to come, because the reserves were about to be thrown open. It might be that that statement had gained some votes in favour of the rights of those who had leases in the central division. And now the hon. and learned member, Dr. Garran, proposed that the reserves should be made special areas. If that were done, where were the ordinary selectors to obtain land? The effect of such a proposal would be the taking away of a great deal of land that ought to be open to ordinary selection. It did not follow that all the reserves were of greater value than £1 an acre, or of greater value than land in other parts of the country. Under the provisions of the bill the Minister had the power to declare which should be special areas and which should not, and the Minister, as the representative of the country, was not very likely to throw specially valuable land open to be scrambled for. It would be very much better to leave the matter in the hands of the Government.

Apart from that, if the amendment were carried, it might be that the pastoral lessees in the central division would not be as likely to get what he considered a concession as they would otherwise be.

Mr. HOSKINS did not agree with the hon. the Attorney-General that there was very little land open to selection. He thought that there was a very large amount of land open to selection, not only in the eastern division but also in the central. He knew that there was a great deal on the Tweed, the Richmond, and the upper Macleay, and on the eastern slopes of New England, as well as in other parts of the colony. But it was not proposed by the amendment to withdraw the special areas from the operation of conditional purchase, and there would be this great advantage to the public, that the land within such areas could not be taken up until it was surveyed. The advantage of having the land embraced in reserves and declared special areas was that it would be surveyed in the most economical manner possible. The conditional purchasers would take the land as it was surveyed, but if they wished to have it subdivided they would have to pay for the subdivision. It was certainly an argument in favour of the proposal that by it we were initiating the principle of conditional purchase after survey. As he had already stated, the land would not be tabooed from conditional purchase, whilst the Minister would still be allowed to fix whatever price he thought proper for that which was conditionally purchased. If the land in such reserves were of inferior quality he might fix the price at £1 per acre, in which case a man would be able to select land within a special area on the same terms as elsewhere; but, on the other hand, suppose the land had a special value, and he knew there were reserves in the colony of exceptional value—rich alluvial land favourably situated—it was not right, having regard to the price paid for land by people generally, that such land should be sold at £1 an acre. If we allowed that to be done we knew that the conditional purchasers would follow the practice that had hitherto prevailed of selling the land soon afterwards at a large profit, in which case the State would be the loser. Supposing the Minister fixed the price at 30s. an acre—

[*Mr. Simpson.*

Mr. W. H. SUTTOR: He cannot fix it at less than that!

Mr. HOSKINS: Supposing he did, most of the land embraced in special reserves was worth 30s. an acre. Why was the land included in reserves? Simply because it was of exceptional value. He was quite mindful of the warning of the Attorney-General against the squatters asking too much. The hon. and learned member had expressed his opinion that the other branch of the legislature would not consent to the alterations; but it must be understood that in the proposal of the hon. and learned member, Dr. Garran, no favour was specially granted to the squatters, because the land was to be taken up under the ordinary conditions of conditional purchase. If the persons taking up land did not give evidence before the land board that they had complied with the requirements of the law, their selections would be liable to forfeiture. Under those circumstances the squatters had very little chance of getting the land, even if the amendment of the hon. and learned member, Dr. Garran, were carried. On the other hand, there was the advantage that the land would be surveyed, and therefore would not be so wastefully taken up as under the present system of conditional purchase before survey. While the proposal in no way tended to retard the future settlement of the country, bearing in mind the facts that many of the reserves were of very old date, that the population of the colony had probably increased by 50 per cent. since they were proclaimed, and that railways had been constructed all over the colony, it seemed to him that the land had so increased in value that fixing the minimum price at 30s. per acre would not in any way tend to retard the beneficial operation of the conditional purchase, while it would tend to the public having something like a fair value.

Mr. DE SALIS said it was originally never intended that the purchasers should get the land below its value; the privilege intended was that they should get the land on credit. In 1861 the value of the land throughout the colonies, generally speaking, was not anything like £1 an acre. It was only the cream of the land that was worth that, and that was taken up by the selectors bit after bit. As he understood

the proposal of his hon. friend, Dr. Garran, it was that the selectors should take up these reserves at their full value, but on credit. Surely in these days of economy we were not going to throw away such an area, which, according to his hon. and learned friend, Mr. Simpson, must be something enormous. He wished to add that there had been no concession to the squat-ers at all. There would be 31,000,000 to 32,000,000 acres to be selected, independently of what was to be unjustly and illegally taken away from the eastern lessees. There would be 45,000,000 acres at once open to the public, and what more could they ask?

Mr. COX said that probably some few members of the Committee were unaware how these reserves came to be scattered over the country. After the passing of the act of 1861 the Crown tenants were in continual dread lest all the salient points of their runs should be selected, and, consequently, they requested the minister to reserve those portions. A very large number of reserves were accordingly made, in many instances altogether in excess of the requirements. They were afterwards carefully gone over, and a number of them revoked; but a number of the most important ones were retained. If they were so valuable at that time as to be reserved, how injudicious it would be now to throw them open to a general scramble. A reserve lately thrown open near Albury was applied for by fifty-two applicants on the same day. One man only, of course, could get it, the lucky drawer of the lot; and he, probably, would be able to sell his goodwill for many hundreds of pounds. It was monstrous to think that land of such exceptional value should be put up to lot, and sold for infinitely less than its real value; and it was demoralising to the community. We might as well start lotteries on racehorses. If that land had been put up to auction it would probably have realised pounds per acre, whereas it was given away to that lucky man for a few shillings. Those valuable lands should be carefully tended, and should be disposed of so as to produce a considerable portion of the revenue, and to largely lessen our indebtedness.

Mr. R. E. O'CONNOR thought the advocates of the amendment had been looking at only one side of the question. It

must be remembered that these reserves did not all comprise land which was very valuable for agricultural or other purposes. Some of them were proclaimed merely because a railway was intended to be taken in a particular direction. He had in his mind one particular reserve proclaimed in that way, the reserve of a large portion of the county of Cumberland where Hornsby and other stations on the northern line were situated. If the amendment were carried, immediately those reserves were revoked at any time, the Government would be bound to proclaim them as special areas, and allow them to be selected. They could not be sold by public auction, or utilised in any other way. Now, was it a desirable thing that land in that situation should be thrown open to selection? One of the difficulties the Government met in selling some of the land in that particular locality was that it would be liable to selection, and they were therefore obliged to act in a very careful way, and to proclaim only portions of it at a time so that they might sell it by auction. Then there were other reserves throughout the country, some for travelling stock, some of scrub lands of an inferior quality. Was it to be laid down as a statutory rule that a minister was not to grant a lease on any land which would include any of those reserves? He would either have to leave the reserve in the lease or proclaim it; and if it were proclaimed it immediately became open to selection. He would point out another matter which seemed to have escaped attention. The 32nd clause of the bill provided:

Upon the forfeiture of any conditional or other purchase, or forfeiture or surrender of any conditional or other lease, or upon the revocation of any reserve from lease or license situated within the external boundaries of any pastoral or homestead lease or occupation license, the land comprised therein shall (subject to the power of the Governor or the Minister to waive or reverse such forfeiture, or to cancel or modify such revocation) be added to the land under lease or license, and be included under such lease or license.

That clause contemplated a large number of leases containing reserves. The effect of the amendment would be that instead of a reserve being paid for as a portion of the lease, the Government could not get any rent, and the whole thing would be tied up, or else they would have to allow

the reserve to be selected as if it were outside the lease. If the hands of the Government were tied in that way, they might be placed in a very great difficulty. The reserves were of all kinds; in all sorts of positions, granted under all sorts of circumstances, and no one rule could apply. There was a great deal in what had been said in regard to initiating the principle of selection after survey; but under the bill the Government had power to do it. Under the bill almost exactly the same results would follow as if the course suggested were taken by the Minister. The only difference was that the amendment would make it compulsory on the Minister; whereas without the amendment the Minister might do it if he thought fit. Something must be left to the discretion of the Minister; and while that course was open to some objection, still the disadvantages would be more than counterbalanced.

Mr. W. H. SUTTON: I am somewhat surprised at the action of the hon. member, Mr. Hoskins, in supporting the amendment, for the simple reason that in his speech on the second reading he uttered these words:

I can hardly believe that in 1889 a democratic assembly would consent to degrade the political institutions of the country by refusing to allow the Secretary for Lands to have a voice in the principal acts of administration in the department over which he presides.

We should rob the Secretary for Lands of one act of administration with regard to reserves by making them special areas immediately upon revocation. My hon. friend, Mr. Cox, complains that large areas of land are put up and sold for a mere song; but I am given to understand that some of these lands were put up at £5 an acre, and in consequence of persons taking up non-residential selections brought as high as £10 an acre. And I am informed that lands which have been put up at £5 an acre have brought in a similar way as high as £30 an acre. That price would be given no doubt for special pieces; but I think we must admit that the system has not tended in any way to reduce the price of land, and that the Minister has done the best he could to obtain the highest prices for the Government. I think it might fairly be left open to the Minister. I am given to understand that there are large areas—something like 3,000,000 acres—in

the eastern division which have been reserved for mining purposes, and that the greater part of that land, not being suitable for agriculture, is not fit to be set apart for special areas.

Dr. GARRAN thought there was some force in the objection made by the hon. and learned member, Mr. R. E. O'Connor, that the railway reserves could not be sold by auction if his amendment were carried, and that there might be some reserves which it would be desirable to turn into scrub leases. He thought that railway reserves ought to be sold by auction, as it was the only way to get the full value. Therefore, with the leave of the Committee, he should like to amend his amendment by adding after the word "act" the words "other than railway reserves, or such as may be wholly or partially proclaimed scrub leases." The very fact which the hon. member, Mr. W. H. Sutton, had mentioned, formed an argument in favour of the amendment, because it showed clearly that the Minister might undervalue land which he was exposing to selection—land which he submitted at £5 was by non-residential selection taken up at a very much larger price. It showed that the Minister was unappreciative, really, of the demand for land, and of the value which certain persons put on it. Why should we, when we were opposed to fresh taxation, throw away land which had a special value at the upset price of ordinary land. We apparently allowed a number of persons to make large profits, simply because we were parting with public property at less than its value. He would go a long way to establish a yeomanry. He valued a yeomanry very highly; but if we allowed a lucky speculator to get possession of land for £5 an acre, which at that very time was worth £15 an acre, and he knew he could sell it the moment he had a legal title, we should not make a yeoman out of that man. The man would stop on the land and do the very minimum of improvement; he would keep within the letter of the law, he would never plant a vine and fig tree for himself and his family to live under; but he would long for the day when he could sell out and go elsewhere. We had turned into speculators, men who ought to be yeomen; they were pressing on members of Parliament, their interests were represented, they were

[Mr. R. E. O'Connor.]

a great force behind the Minister. He wanted to protect the Minister against the undue pressure of the people who were trying to get the lands of the country for less than their value. There was a great outcry to make the squatters pay the full value of the land; he agreed with the outcry; but let us be just to all classes, and make the purchasers also pay the full value. Why should a selector be allowed to take up land worth £5 an acre at a preliminary payment of 2s. an acre, and in five years time to clear out with a handsome profit to go and repeat the process? We did not increase settlement by that means. What these reserves were destined for was immediate settlement, and settlement by a class of persons who meant to live on the land. A man who understood farming and had a little money was not unwilling to give the full value of land; the man who was unwilling to give the full value was the mere speculator; but the other man would not find it any hardship to be protected against the speculator. The amendment would protect the yeoman against the speculator. If we threw the land open for less than its value for one *bona fide* selector we should have four or five speculators.

Amendment amended as proposed.

Mr. H. C. DANGAR would support the amendment with the greatest pleasure. The hon. member in charge of the bill had said that one of the effects of the amendment would be to unnecessarily limit the area of land for selection; but he must know well that that objection did not exist, for the whole of the resumed areas in the central division, amounting to 45,000,000 acres, and about 9,000,000 acres in the eastern division, were available for selection—in fact, land enough to meet the requirements of the country for many years to come. The amendment was moved entirely in the public interest. He was sure that the object of the hon. and learned member, Dr. Garran, was to ordain as far as we could that the public should get proper value for the land, which otherwise he was afraid land-jobbers would have an opportunity to scramble for. It required very little argument to prove that our bounden duty was to regard the public interest, and that interest solely. The public interest had not been regarded sufficiently in the past in regard to obtaining proper value for

the public estate. He could mention hundreds of reserves which had been scrambled for in the way described by the hon. member, Mr. Cox—scrambled for not to raise a bold peasantry, but simply to raise a class of land-jobbers. He should have great pleasure in supporting the amendment, because he believed it was not in the interest of the conditional purchaser or the pastoralist; but in the interest of the public, whose prosperity it was our bounden duty to safeguard.

Mr. DE SALIS said that no harm would be done if, in putting land up to auction, we allowed the buyer and conditional purchaser to bid, and let whoever got it have the option of saying whether he was going to reside on it and perform the conditions; and, if so, to get it on credit, and, if not, to pay ready money. He thought it would be a good way to solve the difficulty.

Mr. MACINTOSH did not think it was necessary to obtain the highest possible prices for the public lands. He did not care how cheaply land was sold. The public estate had been sold on a wrong system in the past; but now that it was sold on credit there was much more competition. He contended that if the land were assessed every year and taxed, it would keep down land-jobbers. We should never be right until we imposed a tax on land; it would bring every man to his senses, and no one would buy more land than he could afford to pay a tax upon. He did not care how cheap the land was, as long as it was taxed.

Mr. W. H. SUTTON: I am in a difficulty with regard to this amendment. If we go to a division, I am afraid it will be found that there is not a quorum present. I wish to call attention to the fact that there are so few members present. When an important measure like the Land Bill is under consideration, members ought to be present. I must move the Chairman out of the chair.

Progress reported.

#### PARLIAMENTARY REPRESENTATIVES ALLOWANCE BILL (No. 2).

##### SECOND READING.

Mr. SIMPSON rose to move:

That this bill be now read the second time.

He said: I was not here at the time when a bill similar to this was dealt with a short time ago. [*House counted.*] I am,

however, in a position to know that the principle of payment of members was recognised by this House. The principle of payment of members of the Assembly having been adopted by the second reading of that bill, several amendments were made in the measure when it was in Committee, the effect of which was that the payment of members should not commence until a new parliament had been elected, and that it should only continue for a certain time. Those amendments were not accepted by the Legislative Assembly. The bill now before us is different in some of its details from the last bill that was before the House.

Notice taken that there was not a quorum present.

The PRESIDENT adjourned the House at 7:50 p.m.

## Legislative Assembly.

*Tuesday, 3 September, 1889.*

American Life Assurance Offices—Responsible Government in Western Australia—Consolidated Revenue Fund Bill (No. 6)—Alleged Excessive Sentences by Judge Windeyer—Crown Solicitor's Fees—Alleged Excessive Sentences by Judge Windeyer—Fall from Undermining at Newcastle—Single-tax—Private Members' Business—Investment of Loan Funds—Supplementary Estimates—Oakley Park Coal-mining Company's Railway Bill—Parliamentary Representatives Allowance Bill—Supply—Manly Drainage Works Bill—Women's College University Endowment Bill—Public Works (Committee Remuneration) Bill (second reading)—Adjournment.

Mr. SPEAKER took the chair.

### AMERICAN LIFE ASSURANCE OFFICES.

Mr. J. P. ABBOTT asked the COLONIAL SECRETARY,—(1.) Has his attention been called to the fact that an American life assurance office (the Equitable, of the United States) recently resisted an action brought against it in the District Court, Sydney, and nonsuited the plaintiff in the action, on the plea that being a foreign corporation it could not be sued in New South Wales? (2.) Is it a fact that the American life offices doing business in this colony have received, and are receiving, large sums of money from the public in connection with life assurance? (3.) Is it a fact that these companies have absolutely no assets in the colonies to meet

[Mr. Simpson.

claims upon them, and that such claims, if resisted, would probably have to be enforced in America through the courts of that country? (4.) Is it a fact that all the Australian colonies, except New South Wales, have acts of Parliament in force which make all foreign life companies equally amenable to the jurisdiction of the colonial courts as are local offices, and which compel such companies to invest funds in those colonies for the security of their local policy holders? (5.) Do the Government propose to introduce a similar act for New South Wales; and, if so, when?

Mr. McMILLAN answered,—The whole question connected with the status and transactions of these societies will be considered by the Government during recess, in view of legislation, if necessary.

### RESPONSIBLE GOVERNMENT IN WESTERN AUSTRALIA.

Mr. SPEAKER: I have to announce the receipt of a communication from the Speaker of the Legislative Council of Western Australia, transmitting the following resolution unanimously adopted by that Council:—

The Legislative Council of Western Australia, in Council assembled, desires to express to the governments and parliaments of New South Wales, Victoria, South Australia, Queensland, Tasmania, and New Zealand, its hearty appreciation of, and grateful thanks for, the sympathy exhibited towards this colony in its efforts to obtain from the Imperial Parliament responsible government, with the full rights and privileges attaching to that form of Constitution enjoyed by all the other colonies of Australasia.

This Council believes that these able and well-directed efforts will prove of the greatest possible assistance to Western Australia; will tend to hasten the introduction of responsible government to this, the last remaining portion of Australia not possessing the full benefits of autonomous institutions; and will expedite the advent of that period so ardently hoped for, which cannot be much longer delayed, when all these colonies shall be united in one great free and prosperous federation.

### CONSOLIDATED REVENUE FUND BILL (No. 6).

Royal assent reported.

### ALLEGED EXCESSIVE SENTENCES BY JUDGE WINDEYER.

Mr. DOWEL asked the MINISTER OF JUSTICE,—(1.) Has he arrived at any decision concerning the two witnesses who