Government, this was at the request of the Sydney Corporation, who did not think 29 acres sufficient.

Mr. COX was surprised at the arguments of the Postmaster General. Did he not well know that a stock-yard containing 3,000 or 4,000 head of cattle would not occupy more than about 2 acres? It was mere special pleading to say that 20 or 30 acres of land were required for the Sydney stock sale-yards, at which the cattle sold never exceeded 3,000 or 4,000 head. The fact was that the cattle would be slaughtered up country just as they were in England. Very few cattle indeed, except those from abroad, were taken to Islington.

Mr. HOLT rose to suggest another reason why the Postmaster General should postpone the further consideration of the Bill. By so doing, the honorable gentleman would be able to obtain information as to whether the area of land available at Glebe Island could be increased by reclamation to 70 acres. The Council ought to have this important information; and we ought also to know what it would cost to make a railway to Glebe Island, and how soon the work could be accomplished.

Mr. COX said that after the expressions of opinion which he had heard, he must decline to withdraw his amendment.

Progress reported; Committee to sit again on Wednesday next.

House adjourned at 20 minutes after 10 o'clock p.m.

Legislative Assembly.

Thursday, 6 May, 1880.

Adjournment (The Supreme Court—Alexander M'Leod's Selection—Light-house on Montague Island)—Leave to give Evidence—Forfeited Purchases Declaratory Bill—Census Bill—Leave to give Evidence—Licensing Bill—Electoral Bill—Lands Acts further Amendment Bill.

Mr. SPEAKER took the chair at half-past 4 o'clock p.m.

ADJOURNMENT.

THE SUPREME COURT—ALEXANDER M'LEOD'S SELECTION—LIGHT-HOUSE ON MONTAGUE ISLAND—CENTRAL POLICE COURT BUILDING.

Mr. BUCHANAN felt compelled to move the adjournment of the House to bring under the notice of honorable members and the Government the frightful state of things prevailing in the Supreme Court. As matters stood at present, justice was completely denied the people. Honorable members would scarcely credit the enormous amount of work now standing without a prospect of its being overtaken by the Judges. There was an exceptionally large number of litigants; and, as there was no likelihood of their cases being dealt with within any reasonable time, he could scarcely imagine any subject equal in importance to that which he raised. Large numbers of persons were being subjected to heavy losses; great wrongs were being inflicted on them owing to their being denied the means to obtain justice, and he thought under these circumstances the Government would say that he was perfectly justified in bringing the matter forward as he had done. He was certain that the Premier had no conception of the existing state of things. At the commencement of the present sittings of the Court the number of remanets was thirty-five and the number of new cases set down for hearing sixty-nine—in all, 104. At the present average rate of disposing of cases—three or four a week in each Court—the two Courts would get through only thirty cases at the most before the end of the sittings, thus leaving seventy-four cases for the sittings commencing on the 24th July. At the same rate the two Courts would get through thirty cases in that term, thus leaving forty-four cases to go over to the sittings commencing on the 1st of November. If thirty cases were disposed of in that term there would still be fourteen cases now ready for hearing, which would not be heard before February, 1881. This calculation did not allow anything for such actions as that of Amos *v.* the Commissioner for Railways, which would occupy two or three weeks. One of the cases on to-day's list was commenced on the 22nd of July last year. Was it not a scandalous state of things that cases now ready for hearing could not be heard till next year? The work was so absolutely beyond the control of the Judges that there was every justification for the conclusion that the people of the colony would be denied justice. There was no use in attempting litigation now, because there was no possibility of new cases being

heard. He held the Government responsible, and it was their duty to see that some arrangements were made by which the work could be overtaken. If the Judges would not do their duty, they ought to be compelled to do it. He would say advisedly that if any Judge found that for twelve months he could not do his duty—no matter what the cause might be—every principle of honor should lead that Judge to resign. We must all sympathise with a Judge who was afflicted with illness, and give him every possible consideration; and if that illness extended over a year our sympathy with him might be intensified, but the fact would incline us more to the idea that he ought to relinquish his position.

Mr. HURLEY *(Hartley)*: Sympathy must terminate at the end of the year then.

Mr. BUCHANAN: A Judge is not in the position of a gentleman governing the affairs of a mercantile establishment. The absence of the latter from business might not be seriously felt, but a Judge was entrusted with the performance of great public functions; the public depended on the due performance of those functions, and if the Judge were not in his place to perform them the greatest amount of disturbance to the whole social system of the country was the result. He could not miss the opportunity of stating as the result of his experience, which was extensive, that there was no more indefatigable, able, and exemplary Judge of the Supreme Court than Mr. Justice Faucett. In the Supreme Court in Sydney, and on circuit, that Judge was ever disposed to go on with business, and he performed most faithfully all the great functions of his high office. If the other Judges performed their duties as faithfully and as well, the business on hand would soon be disposed of. If some of the Judges found that as they were growing old they were becoming less able to perform their duties, they ought to resign and allow abler men, physically speaking, to take their places. The present state of things was intolerable, and he did not know what the result would be if the Judges did not make arrangements to sit every day in the week and work up to 6 or 7 o'clock. They must do this if they were to clear away the mountain which was before them, and which seemed destined to smother them unless they soon reduced its dimensions. But there was no hope of that. The Judges seemed to be beyond the control of the Government; they did pretty well as they pleased. A case showing how time was frittered away in the Courts occurred the other day. One of the leading counsel was unable to address the jury because he was afflicted with a cold, and the Judge immediately adjourned the Court, notwithstanding that there were other counsel present who could have addressed the jury, and who, in England, would have been forced to do so. He saw no other means of getting out of the difficulty than the appointment of two Acting Judges, who should sit from day to day until the whole of the cases on the list were disposed of. If something were not done immediately, the evils would go on increasing until so much discontent was created that the Supreme Court would be abandoned entirely—men would look on it with suspicion and aversion, and would turn their backs on it for ever. A proposition would probably be made to-night to inundate the Court with a further flood of business. The Court, which could not do its business now, would be asked to deal with election petitions and settle complicated questions of electioneering law. He trusted the House would not be so foolish.

Mr. DILLON asked whether the honorable member was in order. Was he not anticipating discussion on the Electoral Bill?

Mr. COHEN contended that the honorable member was in order. He was not discussing the principle involved in the provisions of the Electoral Bill.

Mr. SPEAKER: I think the honorable member was out of order when he said that he trusted the House would not agree to refer election petitions to the Judges. Beyond that he was in order.

Mr. BUCHANAN: The work of the Judges might be doubled by compelling them to deal with election petitions. A wrong would be inflicted on the poor candidate. The rich man could employ counsel, who would raise objection after objection, and so cause the case to stand over for months—possibly causing it to remain unsettled until the Parliament rose

—and during the whole of the time the poor candidate would not be allowed to occupy a seat in the House. Honorable members should bear in mind these facts when they were called on to vote on the question of referring the petitions to the Supreme Court. The sore of which he complained was not one of yesterday—it was one from which the public had been suffering for months past.

Mr. WISDOM: While I think it undesirable to discuss a matter of this kind without notice, I do not, on account of its great importance, blame the honorable member for bringing it forward. I concur in much that the honorable member has said. There can be no, doubt that the business of the Supreme Court, is in a very unsatisfactory state; but I will not undertake to say who is to blame for it. During last session Parliament agreed to a Bill enabling the Government to appoint two temporary Judges, and it was thought that the provisions of that Bill would permit of the arrears of work being overtaken. Unfortunately that has not been the case. The present sittings commenced, I believe, with a greater number of remanets than we have ever had before, notwithstanding that during the past twelve months we have had five Judges. I cannot help thinking that if the Judges had been sitting during the whole of that time there would have been no arrears. What have been the actual facts? One Judge has been ill during the whole time, and another has been ill during the greater part of it, or has been unable to do the work he would have been able to do had he been in good health. But, although there are only three Judges in actual work at the present time, I do not think it would be right to ask Parliament to provide an additional permanent Judge, especially where it has not been shown that if the whole of the five Judges were actually at work there would not be a sufficient number to transact the business of the Court within a reasonable time. I believe that under ordinary circumstances four Judges would be ample, although it might be necessary occasionally to take advantage of the provisions of such a Bill as that passed last session. At the same time the interests of suitors have to be considered. In view of the continued illness of some of the Judges, I have it in contemplation to ask Parliament to agree to the renewal of the Temporary Judges Act for another year. When my predecessor (Judge Windeyer) obtained the sanction of the House to the Bill, he gave a distinct assurance that it was only intended to appoint one Judge, but, if the House agree to a renewal of the Act, I intend to appoint another Judge for twelve months, to clear off the arrears. I am satisfied that if the Criminal Court were held at a different time—say a week before the sittings at *nisi prius*—much of the difficulty and delay which now occur would be obviated. Another reason for my asking Parliament to renew the Act is that—as I am given to understand on good authority—one of the present Judges, who has been sitting for fifteen years without any intermission, intends to apply for leave of absence. This Judge will be entitled to retire on a pension in October; but I do not think that when a gentleman in his high position, and with his long experience, whose services have given satisfaction, is willing to continue to serve the country, he should be forced to retire. If, therefore, leave of absence be given to this Judge, it will be necessary to appoint a Judge to act in his absence; and, for these reasons, I hope Parliament will renew the Act. I agree with the honorable member for Mudgee, that if the Judges find themselves in such a position, by reason of ill-health, that they cannot satisfactorily discharge their work, they ought to retire instead of asking continually for leave of absence. It is not fair to the country that they should continue on the bench when they feel that their ill-health unfits them for the performance of their duties. While we should all regret that gentlemen should find themselves compelled to retire from ill-health, we must agree that it is only right, if they cannot discharge the duties of their position, that they should give place to others.

Mr. S. C. BROWN said there could be no doubt that we had had long delays in the business of the Supreme Court, but the honorable member for Mudgee had grossly exaggerated the existing state of things. It was quite true that when the Court opened there was a certain number of cases in each list; but the honorable member forgot to make allowance in his statement as to the treatment of those lists,

for the large proportion of cases set down for trial never came into the Court at all. As a matter of fact, cases which were set down for yesterday were tried to-day, and the cases which should have been tried to-day would be tried early to-morrow morning. There was a day's delay in one of the Courts, but cases had never been tried much quicker. In the Banco Court cases set down for Wednesday would be on the list for to-morrow, so that there was only a delay of two days there. It seemed to him that the remedy for the state of things complained of was not an increase of the number of Judges. In his opinion we already had an ample number for all the law work of the colony. The remedy lay in a different arrangement of business. One of the Courts to-day, for instance, did not open till 11 o'clock, the proper hour being 10 o'clock. But this delay really meant two hours, because an hour generally elapsed before the Court got thoroughly to work. There was an adjournment of half-an-hour between 1 and 2 o'clock, and the Court rose punctually at 4. There were, therefore, only three or four hours for work. One day last week counsel was not ready to address the Court, and, instead of the junior counsel in the case being called on or the next of four cases on the list being dealt with, the Court adjourned, thus losing the better portion of a day. Business would be facilitated if the Associate were to attend at the Court at half-past 9 o'clock to call over the juries; every one would then be in their place to commence business punctually at 10 o'clock, when the presiding Judge arrived. Throughout the existing arrangements there was nothing but delay. Business would be further facilitated if the civil sittings were put back a week to enable the criminal sittings to take precedence, thus placing another Judge at liberty if a third Court were subsequently required. While the Attorney General was quite right in refusing to be a party to an increase in the number of Judges, the existing state of the bench was very unsatisfactory. One Judge had obtained leave of absence for twelve months; and at the same time that the country was deprived of the very valuable services of this gentleman, another Judge had stated he would not sit after 1 o'clock. In many cases where the other three Judges could be relieved, care was not taken to relieve them. Practically, the whole work had during the past twelvemonth been discharged by three Judges. Four would be an ample number at any time, and five was more than ample. While no man would regret more than himself that the country should be deprived of the services of one Judge, he thought that Judge, if he were unable to do his work, should give place to some one else.

Mr. COONAN thought the existing number of Judges ample to meet our requirements, and he hoped the Attorney General would adhere to his present intentions in the matter. He desired to call the attention of the Minister for Lands to an injustice in the administration of the land law. A selector named Alexander M'Leod conditionally purchased land upon the Murrumbidgerie Run, Dubbo, on the 4th May, 1876, and received the Minister's certificate of approval in the month of August in the following year. The selector brought an action for trespass against the lessee (Mr. William Forlonge) and obtained a verdict, which, however, was set aside because the District Court had no power to decide cases in which the title to land was involved. The lessee's defence was that the land was barred from selection by his improvements, and now that the selector had been four years in peaceable possession, the Government had appointed the Police Magistrate at Dubbo an appraiser in the dispute relative to the improvements, and the unfortunate selector would have to appear again to prove his claim to the selection. It was necessary to bear in mind that the lessee himself took no action in the matter in the first instance; the question as to the improvements being raised for the first time when the selector sued the lessee. He hoped the Minister for Lands would reconsider the matter and allow the selector to remain in peaceable occupation.

Mr. O'CONNOR said he would take advantage of this opportunity to call the attention of the Minister of Justice to the disgraceful condition of the Central Police Court building, in which the accommodation was so limited that magistrates were compelled to sit in a passage. The Minister's attention had been once before

directed to this matter, but he presumed the honorable member had forgotten the circumstance. The building was scarcely fit for the housing of poultry.

Captain ONSLOW said that however undesirable it might be to move the adjournment of the House, he thought the honorable member for Mudgee deserved the thanks of the country for directing the attention of the Government and the House to the state of affairs in the Supreme Court. He must confess that he was very much surprised to hear the statements of the Attorney General and the honorable member for Newtown. It appeared from the remarks of the last named gentleman that there were only three working Judges out of five, and that one Judge had refused to work after 1 o'clock. It had also transpired, much to his surprise, that the Court was frequently not opened until 11, the proper hour being 10 o'clock.

Mr. S. C. BROWN: The Court is some times not open till 11 o'clock, and how that has occurred I do not know, unless the Judges have been engaged upon other matters which would not have occupied their attention if the five Judges had been at work.

Captain ONSLOW hoped we should be further enlightened as to the state of affairs in the Supreme Court before the question of renewing the Temporary Judges Act was brought forward. Some strange and startling revelations had been made, and he trusted the Attorney General would give attention to them.

Mr. BARTON would like to say a few words upon the remarks which had been made concerning the Judges. He believed the Chief Justice had been granted leave of absence twice for six months and once for three months, but with this matter we had nothing to do, because he presumed the applications had been made in the usual way, and they had moreover been granted by the Government. Judge Hargrave had a considerable amount of work in the ecclesiastical jurisdiction, and, although he had been told by his medical advisers that, for the safety of his health he should not sit in the Court generally after 1 o'clock, honorable members would find that the business of the Court was expeditiously discharged. If other Judges also endeavoured to get through the business he did not think, as far as four Judges on the bench were concerned, that we should have much ground for complaint. As a rule the Courts opened not very much later than 10 o'clock in the morning, and when there was any delay it generally resulted from the clashing of business or the arrangement of the calendar.

Mr. DILLON said it seemed to him that the present state of affairs was owing to the illness of two of the Judges. As far as the Chief Justice was concerned, he saw a telegram in a country paper within the last week stating that that gentleman was about to retire from the bench and enter the arena of politics; and if this were true, and his health were sufficiently good to permit him to take the course indicated, one would suppose it would also permit him to discharge his duties upon the bench. If, however, his health were permanently impaired, and there was no prospect of his being able to perform his judicial functions within a reasonable time, he ought to retire. With regard to the second Judge, whose health was in a precarious condition, he would shortly be entitled to retire upon a pension; and if, when that time arrived, he found that the state of his health did not permit him to sit after 1 o'clock, why should he continue to hold his position longer than was absolutely necessary? He did not think the illness of these two gentlemen should be allowed to impede the progress of Supreme Court business much longer. A strong objection to the appointment of temporary Judges was that we were unable to induce men who were fit to be appointed permanently to accept an appointment upon any other condition.

Mr. CHARLES said that some time ago he called the attention of the Colonial Treasurer to the fact that the contractor whose tender had been accepted for the erection of a light-house at Montague Island had failed to carry out his contract. Since then two steamers had been lost, and it was said in many quarters that they would not have been lost had there been a light-house on the island. When he called attention to the matter as he had said, the Treasurer promised to see that fresh tenders were invited as soon as possible, but, though he had watched very carefully, he had not seen any notice calling for tenders. He hoped that no

further time would be lost, but that the work would be carried out as soon as possible, in the interests of the public and of the seafaring men who had to navigate on our coast in all weathers.

Mr. WATSON said that the work of constructing light-houses was in the department of the Minister for Works, but he would make inquiries to-morrow, and then give the honorable member some information on the subject.

Mr. BUCHANAN, in reply, said he was not at all satisfied with the statement of the honorable member for Newtown as to the condition of business in the Supreme Court. There were, as he had pointed out, 104 cases to be dealt with at the present sittings, and how the question of dealing with them could be settled by a statement of the number of cases which had already been dealt with, was to him incomprehensible. He was sure that the number of remanets for the next sittings would be positively alarming. He cordially agreed with all the Attorney General had stated, and he would support the honorable gentleman's measure for the appointment of two temporary Judges. He trusted that every possible consideration would be given to Mr. Justice Faucett, who had spent fifteen years of his life in the performance of his high functions.

Question put, and resolved in the negative.

LEAVE TO GIVE EVIDENCE.

Message (on motion by Mr. BURNS) sent to Council, requesting that Mr. G. H. Cox and Mr. Ogilvie be allowed to attend and give evidence before the select committee on Assisted Immigration.

FORFEITED PURCHASES DECLARATORY BILL.

Bill returned from the Council, with amendments.

CENSUS BILL.

In Committee,—

Sir HENRY PARKES rose to move,—

That it is expedient to bring in a Bill to make provision for taking the census, and for obtaining certain agricultural and pastoral statistics in 1881.

He said that the Bill was a copy of the Census Act passed ten years ago, and that it was his intention to invite the concurrence of the Governments of the neighbouring colonies in having the census for those colonies taken on the same day on which the Government proposed that ours should be taken.

Question put, and resolved in the affirmative.

Resolution reported, and agreed to.

Bill presented, and read the first time.

ELECTORAL BILL.

In Committee; further consideration.

PART IV.—TRIAL OF ELECTION PETITIONS

Clause 53 (Interpretation of terms for purposes of Part IV.).

Mr. S. C. BROWN said honorable members would understand that this was the first clause in that portion of the Bill which transferred the jurisdiction to try petitions from the House to the Supreme Court, so that the decision of the Committee on the clause would determine the whole question. The trial of election petitions had been one of the privileges of the House since the passing of the Electoral Act of 1858, and before we were asked to surrender that privilege very good reasons ought to be given. The question had been before the House on several occasions, so that the arguments used in support of the transfer were well known. It seemed to him that there were only two arguments worthy of notice, the first being that some of the decisions of the committee had been inconsistent, and the second that the committee was likely to be biassed by party feeling. But, with regard to the first, could it be said that the tribunal to which it was proposed to refer the trial of petitions had never been inconsistent in its decisions? Had not Judges given differing decisions and differing interpretations of the law? Was it not shown that in a case which was under discussion the other night one of their Honors gave a decision or an opinion with regard to the law in the early part of the case, and afterwards, having further considered the matter, gave a decision diametrically opposed to his former opinion? Was it not a fact also that a short time ago, in the Corporation appeal cases, two Judges having equal jurisdiction gave entirely opposite decisions upon the same state of facts? The tribunal, therefore, to which it was proposed to refer the trial of petitions, was as liable as any committee of the House to the charge of inconsistency.

During the period in which the present law had been in existence there were only two cases in which the Elections and Qualifications Committee had given contrary decisions—in one case as to the law in regard to aliens and in the other as to the holding of an office of profit; and those two instances, he submitted, were not sufficient to justify the transfer. Now, as to the other argument—namely, party bias; it ought not be forgotten, in the first place, that the members of the Elections and Qualifications Committee were sworn to do their duty; and to whatever extent party feeling might exist he was sure that there were very few members who would act contrary to their oaths in order to serve a party purpose. He had had the honor of a seat on two or three election committees, and he did not believe that any of their decisions were influenced by party feeling. He did not think, therefore, that the second argument was a sufficient reason for making the change. Now, let us look at the other side of the question, and first let us see the mode of trial provided for by the Bill. If honorable members would turn to the 64th clause they would find that—

> Every election petition shall be tried before a Judge of the Supreme Court in Sydney and shall except where such petition raises a question of law for the determination of the Court as hereinafter mentioned be so tried by such Judge sitting in open Court without a jury.

Then if we looked at the 67th clause we should find that—

> At the conclusion of the trial the Judge shall determine whether the member whose return or election is complained of or any and what other person was duly returned or elected or whether the election was void and shall forthwith certify in writing such determination to the Speaker and upon such certificate being given such determination shall be final to all intents and purposes.

It came, then, to this—that if we agreed to the transfer and to the clauses he had read, we should take the power of determining as to disputed elections from seven men sworn to do their duty and place it in the hands of a Judge of the Supreme Court, whose certificate would be absolutely final. With all the respect he had for the Judges of the Supreme Court, he ventured to say that in cases of this kind, which turned upon matters of fact, the decision of any of them would not be preferable to the decision of seven members of the House, who were chosen, not by the Government nor by any party, but by the Speaker, whose warrant of appointment had to lie on the table of the House three days before it could take effect, in order to afford an opportunity of challenging any of the appointments. Whatever might be the attainments of a Judge in legal matters, the constant consideration of the technical construction of Acts of Parliament, of documents and other matters brought before him, was likely to warp his judgment in dealing with questions which in their determination required a broad construction and a large practical knowledge of the world, which a Judge, from the very nature of his training and his duties, could not be expected to have in the same degree as seven men selected from the representatives of the people in the Chamber. But there appeared to him to be a still stronger objection to the proposed change. The 82nd clause provided that—

> Subject to the provisions of this Act the Court shall have the like powers jurisdiction and authority with reference to an election petition and the proceedings thereupon as if such petition were an ordinary cause within the jurisdiction of the Supreme Court.

Now, what would be the mode of procedure? A day would be set apart for the hearing of the petition, and the petitioner would be bound to attend personally or by counsel, and the case would be tried exactly in the same way as a case at *nisi prius*, subject to all the objections to evidence and the technicalities which prolonged a trial and sometimes prevented substantial justice from being done. But what were the proceedings before a committee of the House? In the 72nd section of the Act it was provided that—

> In the trial of any such questions the committee shall be guided by the real justice and good conscience of the case without regard to legal forms and solemnities and shall direct themselves by the best evidence they can procure or which is laid before them whether the same be such evidence as the law would require or admit in other cases or not.

He asked any honorable member by which of the two modes he would prefer to have his case tried if he were in the unfortunate position of being a party in such a case. It seemed to him that it was only necessary to contrast the two provisions he had quoted in order to show the superiority of a committee of the House over the

tribunal to which it was proposed to refer petitions. But the objections did not end here. Before the committee the costs were, in most cases, trifling. Each party could conduct his own case before the committee, or could avail himself of the services of an attorney, without the necessity of employing counsel. In the Supreme Court it would be impossible for him to conduct his own case; he must employ counsel, and the Judge might, if he thought fit, refer legal points to the full Court, whereupon fresh arguments would have to be heard. What could be done by the committee at a comparatively small cost would be an endless source of expense in the Supreme Court. That was a consideration which honorable members ought to weigh well before they determined the question. Then there was another important point which had to be considered. Under the present Act the petition had to be presented within a certain number of days after the opening of Parliament; the Speaker selected the committee, and after his warrant had been on the table for three days the committee were sworn in, and any petitions which had been received were referred to them. Under the provisions of the Bill fifty-eight days must elapse before the petition could go before a Judge, and during the whole of that time the member petitioned against would be deprived of his seat, and his constituents would not have the benefit of his services. After the lapse of fifty-eight days it might be two or three months before the case was settled. Again, there was another important point to be considered. Under the present Act the committee could deal with cases referred to them by petition, or by resolution of the House; but, under the Bill, the Supreme Court would only have power to deal with cases referred to them by petition. Under that provision the position of affairs would be this: Suppose, during a session, a matter arose which rendered it necessary to inquire into the question of the eligibility of a member to occupy a seat, there would be no tribunal to refer the question to. It would have to be determined by the House, and injustice might be done through the influence of party feeling. We were not sworn to try any particular question, whereas the committee were. For all the reasons he advanced, he thought it would be far preferable to leave things as they were than to refer election petitions to the Supreme Court. There might have been inconsistent decisions by different committees; but he denied that they arose through the influence of party feeling. One committee might honestly differ from the conclusions of another committee on matters of fact as well as of law, without being open to the charge of party bias. He asked honorable members to consider well before they gave up the privilege—before, in point of fact, they acknowledged that seven men could not be selected out of a hundred who possessed sufficient intelligence and honesty to decide election petitions. He had referred to the expense to which the candidate would be put if he were drawn into the Supreme Court, but there was the further question of the expense to the country. Honorable members in a previous discussion had urged the necessity for the appointment of additional Judges, and if we decided to refer election petitions to the Court, should we not be increasing the work, which was said to be already more than the Judges could dispose of? Would not the passing of this part of the Bill be a pretext for the appointment of an additional Judge?

Captain ONSLOW: How many election petitions are presented?

Mr. S. C. BROWN: I know that after one general election there were five or six.

Mr. DILLON: There have not been three during the last three years.

Mr. S. C. BROWN: There might be a dozen. At any rate the provision would form a pretext for the appointment of an additional Judge, and that would mean an extra expense of £2,000 a year.

Mr. GARRETT said it was unfortunate that in submitting the provisions of the Bill under discussion a member of the Government had not said something in favour of them. The honorable member for Newtown had appealed to the pride of honorable members by asking them if they did not consider that their powers of intellect and their honesty enabled them to deal with these questions in a more satisfactory way than those who had been chosen to act as judges on account of their lengthened experience in dealing with all sorts of questions, and because of their high character for honesty and

integrity. Surely men in such independent positions, who were used to deciding the most intricate questions, could be safely trusted with the power to deal with the simple questions of law involved in election petitions. It was a slander to say that the Judges of the Supreme Court had not the intelligence and the capacity to deal with these simple questions.

Mr. S. C. BROWN: I did not say that. I said that one Judge would not be more capable than seven members of the House to decide the cases.

Mr. GARRETT: A single Judge is better qualified to decide the cases than any seven men we have in the House or ever have had in it. Although we might have seven members equally well trained as the Judge in legal matters, it would be better to leave the cases to be decided by the Judge, as the result would be that there would be speedier and more satisfactory decisions. Questions of far greater importance had to be decided by one Judge. The honorable member for Newtown talked about giving up a privilege. There was no privilege. If there were a privilege, it ought not to exist. The cases referred to the committee did not involve questions between man and man—they were not personal matters; but they involved the right of a man to sit in Parliament and legislate for the whole people. In one case the committee decided that a man who was said to be an alien could not sit in the House, and the result was that the person who only got one-fifth of the votes of the electorate got the seat. In that case the voice of the public was ignored, the man who was supported by the minority being appointed by the decision of the committee to exercise the right of representing the people. The honorable member for Newtown said that the Supreme Court was liable to be inconsistent. He denied that, and was surprised to hear a legal gentleman make the assertion. On questions of law the decision one Judge was governed by that of another. What was laid down as the law in one case would be the law in another; therefore the Supreme Court was not liable to be inconsistent. With the Elections and Qualifications Committee the case was different. They could arrive at one decision in one year, and give an entirely opposite one the next. The decisions varied according to the composition of the committee. In illustration of this statement he would refer to a case in which a book which was supposed to record the acts of a person in another country was tendered as evidence. Any man of common-sense would say, on the general rule of evidence, that because a book recorded a certain thing it was no evidence that that was an actual fact; and the committee decided in that way. The book was rejected, but at the next sitting of the committee some of the members were absent, the book was again tendered as evidence and accepted, and on that very evidence the case turned. If honorable members would peruse the volume containing the proceedings of the committee they would be made acquainted with the contentions which took place. They decided questions without the least regard to legality and the forms of judicial proceedings, and to call it a judicial tribunal was a slander on the very name. The honorable member for Newtown had said that Judges did not possess a large knowledge of the world. Next to his knowledge of the law, one of the highest qualifications of a Judge was his knowledge of mankind. If the honorable member for Newtown would attempt to compare a Supreme Court Judge to any member of the House as regarded knowledge of the world he would attempt anything. All the probabilities and facts were in favour of the Judge who, in addition, possessed the knowledge of how to weigh evidence properly, which was essential to a just decision. The wisest legislative body in the world had entrusted the Judges with the power of determining cases of disputed elections. In England, where they had between 600 and 700 men to select from, many of whom were eminent lawyers, they had, after years of experience, decided that it was better in the interests of justice and in fairness to the people—who were mostly concerned—that disputed election cases should be dealt with by a Judge. The mode of selecting committees in England was much more reliable than ours. A very intricate plan was adopted by which the fittest men were selected, and the plan was accompanied by checks which it was thought would prevent a preponderance of any party. You could not pick as many incompetent persons as compose our commitees

out of the whole body of the House of Commons. Notwithstanding all the precautions, experience in England showed that the committees were swayed by party considerations. He had been a member of Parliament for twenty years, and had been a member of the Elections and Qualifications Committee for five or seven years, and he had no hesitation in saying that the committees had been more or less swayed in their decisions, and in the mode of conducting their proceedings, by party considerations. It was expecting men to be more than human to expect them to drop party feeling. In the House they contended most zealously party against party on almost every question, and to expect that they would banish that feeling on entering a room and acting under another chairman was to expect them to become angels all at once without going through any intermediate process to complete the metamorphosis. Committees always had been, and always would be, influenced by party considerations. Adopt any mode you liked of choosing the committee, and the committee must still be influenced by party feeling.

Mr. DAY: Take an equal number from each side of the House.

Mr. GARRETT: There was no rule compelling members of the committee to attend. The number was odd, and how could there be an equal number from each side? The contrary decisions which had been referred to were given by the odd vote.

Mr. DAY: The odd man may be selected from the members sitting on the cross-benches.

Mr. GARRETT looked upon members sitting on the cross-benches as supporters of a party of which they were ashamed. A Judge of the Supreme Court had no interest one way or the other when cases were brought before him; he was beyond those influences which operated upon members of Parliament; he was under the most solemn obligation to decide on the merits of the case; he acted without fear or favour, and therefore he ought to be the authority entrusted with the power of dealing with election petitions. Not a word could be said in disparagement of the capacity of a Judge so as to bring him down to our level when dealing with matters affecting ourselves. The present Act imposed on the Speaker the necessity of selecting the committee. He might be a strong party man, and might nominate red-hot party men. That was the case with the first Speaker elected here under Responsible Government.

Sir HENRY PARKES: But he did his duty well.

Mr. GARRETT had no doubt that Sir Daniel Cooper discharged his duties as well as any of his successors. Another objection to the practice was that a considerable proportion of members being new to parliamentary duties, and unacquainted with parliamentary practice, the Speaker had to select seven old and experienced members, who would most probably belong to a party, and have their likes and dislikes upon personal and political grounds. There was a vast difference between picking thirteen or fifteen men from a body of 600 and selecting seven or nine men from a body of seventy-two or 103. The members of the House were intimately acquainted with one another, and were, on that ground, likely to form strong prejudices for or against one another. It was suggested that the House had to approve of the Speaker's appointments. The House, however, had to object, and that was a very different thing from approving. Honorable members were asked to place themselves in the invidious position of, in the first place, questioning the judgment of the highest officer of the House—our chosen Speaker—and, in the next, of objecting to one of their own number performing his duties, the objections involving an expression of want of confidence in the capacity of the one person or the honesty of the other. A more clumsy process of obtaining a judicial tribunal than that which existed in this matter was never devised. If the names of the seven men were chosen from others shaken up in a hat there would be a better chance of getting a satisfactory tribunal. Although there was no provision in the Act that when a man had acted a certain time he should not sit again, it had become the practice not to appoint a member for more than one Parliament. In this way we discarded the experience gained by old members in dealing with the class of cases submitted to the committee; and their places upon the committee were filled by men who were distinguished for nothing.

He did not wish to reflect upon the present committee, but it was the practice for Speakers to select men who represented the quiet stupidity of the House, so to speak.

Mr. COPELAND: Was that the reason which actuated the Speaker when he made your appointment?

Mr. GARRETT: That appointment was made nearly twenty years ago. But it was a fact that quiet nonentities were preferred to men who made themselves conspicuous by attention to business and inquiry into the labours and experience of Parliament, and manifested those characteristics by joining in debates. Men who sat perfectly silent, and thus obtained the reputation of being respectable, would get upon the committee. This, at all events, was the sort of men who had been upon the committee of late years. No better course could be adopted than the submission of questions of law to the impartial and independant tribunal which was to be found in the Supreme Court. The question in dispute did not affect our proceedings alone; it affected the interests of a large body of constituents outside as against one man who might illegally occupy a position in the House. It was really unfortunate that the Government were not united upon this question and that the clause would not have such advantage as might be given it by Government support. After twenty years experience he defied any one to say that the Committee of Elections and Qualifications had been a satisfactory tribunal. Let us at least try the new plan proposed, and if our successors disapproved of it they could alter it, and restore the existing practice, or substitute another. We had the example of the mother country before us; and in the light of that example we should be perfectly justified in trying the experiment of referring disputed elections to the Supreme Court. With regard to costs, they would not be greater than under the present arrangement. The petitioner had at the present time to lodge £100; and those who appeared before the committee found it as necessary to employ attorneys and barristers as though they were appearing before a Judge.

Mr. MCCULLOCH: And they are charged twice as much.

Mr. GARRETT: It was a notorious fact that barristers charged outrageously when they appeared before a select committee. The satisfaction with which the decisions of the Supreme Court would probably be hailed would stand out in marked contrast to the muttered scandals which had occasionally attended the proceedings of the Committee of Elections and Qualifications. The members who composed the committee must belong to one side of the House or the other, and in the matters which came before them they would be biassed by feelings which would induce them to divide in just the same way as they divided in the House itself. The fact of having to do justice would make no difference. Honorable members no doubt acted up to the best of their lights, but all the swearing in the world would not deprive men of their likes and dislikes. With regard to the oath, if he would not believe a man upon his word he would not believe him upon his oath, and he believed a large number of honorable members entertained the same opinion. The Committee of Elections and Qualifications, in his opinion, was none the better for being sworn. To suppose that the taking of an oath endowed a man with immunity from party influences and considerations was absurd. The taking of the oath made no more difference than did the clothing of the Committee of Elections and Qualifications with a different set of clothes to those worn by members of other committees.

Mr. MACINTOSH: Most of the Judges have belonged to parties.

Mr. GARRETT: When a lawyer was elevated to the bench he was above party influences. He was not interested in the continuance of one party or another. In no way could he be influenced by party considerations. A Judge who had been a long time in the House engaged in party politics would be better able to try the questions involved in disputed elections than gentlemen who might have been in Parliament but knew nothing of parliamentary law or political life. He would possess all the requisite knowledge, and yet be deprived of prejudicial influences. If the clause were once adopted, and the new practice were tried through one or two Parliaments, he had no fear that it would be abandoned.

Mr. COHEN said he joined with the honorable member for Camden (Mr. Garrett) in his regret that the Government were not united on the question; and he did so, not from considerations favourable to the clause, but upon those constitutional grounds which involved the responsibility of Ministers for the measures they submitted. This evening we had witnessed an exception to that rule unparalleled in the history of the colony. The action of the Administration in the matter was one of the surest external signs of weakness which any Government could betray. We were now considering a most radical reform in our electoral system; and, with the exception of a few words from the Colonial Secretary in moving the second reading of the Bill, the reform had been submitted *sub silentio*. The Committee was asked to adopt the clause without one word of recommendation, and that course was pursued because the question had been made an open one in Cabinet. The Colonial Secretary had told us that he was opposed to the clause; but what became of his colleagues, who had an equally strong opinion in favour of the provision? Were they going to give their vote *sub silentio?* If this were made an open question surely the Committee were entitled to hear the reasons of Ministers for, as well as against, the clause. The practice of treating important principles as open questions had been strongly deprecated by leading statesmen in England and by some of the highest constitutional authorities. Sir Robert Peel and Earl Grey both deprecated the practice in very strong language, and it was of greater consequence in this particular question to know that it had also been deprecated by the honorable gentleman at the head of the Administration. The honorable member was then sitting in opposition to the Government of the honorable gentleman who was now Vice-President of the Executive Council; but he was not so surprised to find an inconsistency in the course the honorable member had pursued this evening when he considered how frequently of late the honorable member had forgone his repeatedly expressed opinions. The speech in which the honorable member spoke of the evil results of making great principles open questions was upon the second reading of the Education Bill introduced by the Robertson-Stuart Administration. Mr. Stuart (the late member for East Sydney) joined the Administration entertaining strong denominationalistic views upon the education question, which were not shared by all his colleagues, and the Government consequently agreed to make the portion of the Bill relating to the denominational schools an open question. The honorable gentleman's speech was reported in the *Herald* of March 9th, 1876. After dealing with some of the features of the Bill, he proceeded to say—

> Now he came to the honorable gentleman's "open question." The honorable gentleman had read them several quotations from Lord Macaulay—one taken from the *Edinburgh Review*. It was almost the first time he knew of a review article being quoted in regard to the joining or retiring from the Government of one of its members. He should rather have thought that they ought to have the opinions of a statesman given under a sense of responsibility. But the quotations were entirely against the honorable gentleman's views. Lord Macaulay said that all questions were open questions, with two exceptions. The first class of measures were all measures produced by a Government on which they ought to be unanimous. And the second class of questions were all questions of censure affecting the Government on which they ought to be unanimous. He claimed Lord Macaulay as completely justifying the technical ground on which they stood when they said that it was a new thing—an altogether unprecedent thing—for a Cabinet to agree upon a measure and then to come down to the House and tell the House that they had agreed to vote against each other. Lord Macaulay did not say so, nor would any statesmen with even a less reputation than Lord Macaulay be found to say so. The honorable member had again adduced the Electoral Bill when he said that two Ministers voted for the ballot and two against it. As the honorable gentleman had quoted no other case he supposed this made up the total of his authorities. He maintained that that precedent was no precedent at all. No man could quote himself or make a precedent for himself. When they told the honorable gentleman he was doing wrong, "Oh," said he, "I did it before."

Further on the honorable member said—

> The honorable gentleman (Mr. Dibbs) said he did not think the people of the country would desire that one of the ablest men in the country should be kept from power because he disagreed with his colleagues upon this small point—this trumpery point—of shutting up denominational schools. He thought that was a large amount of butter. He had yet to learn that any man, of however much value he might be, was to be drawn into a Government at the expense of his avowed convictions. His reading of history told him that men were valuable just in proportion as they carried into the Government their well-matured convictions, and sought, when

there, to carry them into effect. He denied altogether the theory that unless they left all important questions open they could never expect to have the most fitting men to carry on the Government; and he was infidel enough to doubt that they had got the most fitting men in the country by this combination of men with different principles.

Mr. HOSKINS: We have had protection and free trade before.

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Mr. PARKES: Did the honorable gentleman allude to his association with Sir James Martin?

Mr. HOSKINS: Yes.

Mr. PARKES: The honorable gentleman was in error, as there was no attempt to levy taxation. There was a cardinal difference between the case referred to and the present case. Well, he being a free trader, associated with Sir James Martin, who was a protectionist, it was determined that no measure of a fiscal character should be introduced by the Government; but that, if any member of Parliament introduced such a measure, the members of the Government should be free to vote as they liked. They therefore consistently united; and such coalitions might be found in all periods of English history.

Here the honorable gentleman very clearly defined what appeared to him to be the sound principle which should guide the Government in dealing with open questions. At that time he was one of a party which was led by the honorable gentleman, whom, as his political leader, he regarded in many respects as his "guide, philosopher, and friend," and so strongly was he impressed with the soundness of the principles the honorable member then laid down that he had never forgotten them, and when he heard the statement that the Government intended to deal with this important portion of the Bill as an open question it at once struck him that here was another remarkable instance of political heresy on the part of the honorable member. He would like to know what course would be pursued on this question by the Attorney General, who deservedly held a high place in the estimation of honorable members for his strict adherence to sound constitutional principles. In saying this he did not mean to imply that the honorable gentleman's colleagues were not equally desirous of adhering to the spirit of our Constitution in dealing with questions of this kind, but, if they were all orthodox in their adherence to constitutional principle, how came they to make this an open question? This was the second important feature which had been made an open question in the Bill, the first being the clause which proposed to give a member to the University. How was this to be reconciled with the principle laid down by the Colonial Secretary in 1876, and with the opinions which he believed the honorable member still entertained? He would not refer further to this feature in the conduct of the Government, but he would listen with some curiosity to hear how the honorable member would reconcile his present position with the position he took up in 1876. One of the reasons assigned by the honorable member for Camden (Mr. Garrett) for the proposed change in the mode of dealing with election petitions was that he thought one of the Judges of the Supreme Court would be more impartial and better able to deal with such matters than were seven members appointed by the Speaker. He had had the honor of a seat in the House for five years, and he was not disposed yet to give his vote in favour of a change until some substantial grievance had arisen to call for it. He thought the speech of the honorable member for Camden, in so far as it referred to the constitution of the Elections and Qualifications Committee and the manner in which they were chosen, was a gross libel on the character and independence of honorable gentlemen. The honorable member's reference to adverse decisions by the committee had been fully met in anticipation by the honorable member for Newtown, who had shown that two Judges of the District Court, with the same state of facts and the same law to guide them, had given absolutely conflicting decisions. Let us see if the same doubt and uncertainty and difficulty would not exist if the trial of petitions were placed in the hands of a Judge of the Supreme Court. The 71st clause provided—

> If it shall appear to the Judge on the trial of any petition that any question or questions of law require further consideration by the Court then it shall be lawful for the said Judge to postpone the granting of the said certificate until the determination of such question or questions by the Court and for this purpose to reserve any such question or questions in like manner as questions are usually reserved by a Judge on a trial at *nisi prius*.

But suppose the Judge to have so clear an opinion on the point that he did not think it desirable to refer it to the full Court, but decided it himself, and that, in a subsequent case, a different decision was given

on the same point by another Judge, for the latter Judge would not be bound by the decision of the former. With this illustration—which was by no means an improbable one—before them, were honorable members prepared to say that the transfer was desirable? He admitted that the change proposed here had been adopted in England, but if honorable members would refer to the debates which took place at the time they would find that it was not because the committees of the House of Commons were biassed by party feeling, but chiefly because of the great convenience that would be secured by the change, and because the Judges would be able to inquire into the case in the very locality where the corrupt practices were alleged to have taken place. That could not be done in this colony, owing to the remoteness of many of our towns from the metropolis. He thought the charge made by the honorable member (Mr. Garrett) against one Speaker, and by implication against others, was very unbecoming; because although one Speaker might have been elected after a party division, the honorable member failed to prove that the appointment of the Elections and Qualifications Committee appointed by that Speaker was influenced by party considerations. On the contrary, he learned that five of the committee were members who voted against the Speaker's election two or three days before. The honorable member's objection to the committee was a mere fancy of his own, and had no foundation in fact or theory. He would be one of the first to give his vote in favour of the change if he thought that we could not obtain a just decision from the committee, but he had not yet seen any reason for abandoning the present mode of trial. He believed it to be the practice of Speakers in appointing the committee to select gentlemen who fairly and substantially represented both sides of the House, and he had never heard any honorable member take exception to the name of any honorable gentleman on account of his party predilections. Doubtless, it would be most invidious to take open exception to any appointment of the Speaker, but if there had been any objection, either against the Speaker or any member of the committee, on the ground of party prejudice, we should have heard of it from one another. He admitted that the Judges, from their long experience and the nature of their duties, which were directed to eliciting evidence and weighing its value, were fitted for the discharge of the duty, but, so far as the committee were concerned, he did not think there were any difficult questions of law for them to decide. The law was very clear—the corrupt practices which invalidated the election of a member were laid down in language which every one could understand, and all the committee had to do was to determine whether a certain course of action came within any of the definitions of corrupt practices. The honorable member said that a Parliament might be chosen which would be composed of entirely new members, and under such circumstances the Speaker would have to nominate to the committee men who were not acquainted with parliamentary practice or proceedings. It had never happened yet that we had a Parliament composed wholly of new men, and he did not think such a thing was likely to happen. We must all desire a fair influx of new blood, but it would be a very lamentable thing for the country if the composition of the House were totally changed.

Mr. GARRETT: I did not suggest anything of the sort. What I said was that if we increase our numbers to 103 members there must of necessity be a large number of new members.

Mr. COHEN: If a large number of new members were returned, were we to suppose that the gentleman, who by the choice of the majority of the House had been appointed to the important position of Speaker, would be so reckless in the discharge of his duties and so unmindful of his responsibilities that he would appoint men who had no experience and no capacity to decide election petitions? He did not at all approve of the proposal to draw lots for the selection of the committee. In the present numerically weak state of the Supreme Court bench he was not disposed to transfer any further work to them. There was a probability of one of the Judges shortly applying for leave of absence, and to this he was deservedly entitled. He did not, however, agree with the Vice-President of the Executive Council when he said that the bench was weak almost to decrepitude

Sir HENRY PARKES: The honorable and learned member for West Maitland has made a speech which has occupied the time of the House for upwards of an hour, and he has devoted half of that speech to an effort to prove an inconsistency on the part of an honorable member who agrees in his views on the main question. That is an example of debating which does not often occur in any Legislature, and I venture to think if my inconsistency had been so clear it could have been proved to the satisfaction of most persons in less than half-an-hour. The honorable member has quoted largely from a former speech of mine, and I am ready to admit that that is a kind of reading which, if he pays attention to it, will do him good. And I venture to think, also, that most persons will believe that the passage quoted was the best part of the speech of the honorable member. The honorable member will forgive me if I tell him that although he has on many occasions quoted my speeches I am not likely to be found at any time quoting his. Now, what has the honorable member proved? He has proved that this is an open question with the Government. I appeal to the whole House whether I have not at all times belonged to Governments who have not been in the habit of having open questions. No Governments ever existed in this country which have had fewer open questions than the Governments to which I have belonged. I hold the opinion still that it is not a sound or a wise thing, nor setting a good example in political life, for Governments to have open questions in Parliament, and I subscribe to the doctrine laid down by Lord Macaulay, that all questions of first magnitude—embodying questions of policy, and all questions of censure affecting Government—are questions on which no Government can be divided. But I should like to know whether this question can be considered in either of those lights—whether the circumstances surrounding me and my colleagues are not so exceptional as to justify a departure on a question of the character which I shall presently show this to be. Amongst the members of the Government there are two who have been leaders, and who have introduced Electoral Bills. My honorable colleague, the Vice-President of the Executive Council, has on two or three occasions submitted Electoral Bills, which embodied machinery for the reference of election petitions to the Supreme Court. In the same relation to the Government—that is, as its chief—I have on three occasions submitted measures in which I proposed to retain the existing machinery for dealing with disputed elections by committees appointed from our House. The Government find themselves in the position of having a bare majority of Ministers who are in favour of the Supreme Court. Now, if there be a question upon which it would be justifiable for a Government to act on different sides, it is a question like this, which is not a question of policy, and which cannot be twisted into one; which is not a question affecting the Government, but which is a question affecting the House, as they have to decide what judicial tribunal shall try these disputed election cases. The Government being divided as it is, what could be more natural than that we should make this an open question? I believe we would be justified in our action by any person who understood the real, the broad, and deep principles which enter into our form of Government; but I do not expect the honorable and learned member for West Maitland to understand these things.

Mr. COHEN: I am opposed to the honorable gentleman now. It was different a few years ago.

Sir HENRY PARKES: Why does the honorable and learned member stands in this relation to me? I have never replied to his attacks, never said a word against him, but he has lost no opportunity to make far-fetched and tortuous attacks on me, such as is the present one. I should think that no man would dream of making an attack on another, on a question on which they both agreed, merely to prove that he had been inconsistent. I make the honorable and learned member a present of my inconsistency. I say there is no inconsistency in the course I have adopted. Holding the strong opinion I do, I should hardly be worthy of being a member of the House if I did not stipulate that I should still adhere to my consistent course on the question. I am not going to argue this question, because I will not argue against my colleagues. I leave them to take their own course and

content myself with the expression of my conviction. I have always been of opinion that if the House is competent to create a tribunal of justice it is competent to form a tribunal to determine its own disputed elections. I have always been of opinion that the material which makes Judges is in no sense different from the material which sits in this Chamber. I have always been of opinion that a committee of the House, under oath, is just as likely to determine even questions of law, and certainly as likely to determine questions of fact, in a way as satisfactory as is the Supreme Court, and I have been strengthened in that opinion on reflection and from what I have recently heard. I think it is clear beyond doubt, that if we send election petitions to the Supreme Court a much longer time will be consumed and much larger expense imposed on disputants than that to which they are at present subjected; and, if that be the case, it seems to me that the person who can spend the most money, and resort to the forms of law in the most ingenious way by the assistance of eminent barristers, will have the best chance of winning the seat; and that the man without means, without friends, and who is not acquainted with the litigation of the Courts, will have a very poor chance indeed. It is because I think that the determination of these cases is likely to be more speedily and more economically arrived at by a committee of our House, and at the same time as fairly as the Supreme Court would determine them, that I hold to my opinion. Without arguing the matter any further I shall certainly vote in accordance with the convictions which I have always avowed.

Mr. COHEN thought there was no foundation for the charge made by the Colonial Secretary that he had never lost an opportunity of making tortuous attacks against him. He had always attacked the honorable gentleman in a legitimate manner, as he had a right to do. He should continue to attack the honorable gentleman when he thought he would be justified in doing so.

Mr. GREENWOOD said that some interest had been thrown into the debate by the personalities of the last two speakers on the question of consistency. In politics questions of consistency were important, and more especially when they affected not only the head of the Government, but of the Government generally, in recommending a certain course of legislation to Parliament. This was a question of the kind, but as to whether it was a question of policy or not he was content to let the Government decide. The Colonial Secretary was certainly not complimentary to the honorable and learned member for West Maitland, but he was very complimentary to himself, and he would have shown better taste if he had allowed some one else to say that the best part of the honorable member's speech was the quotation. He thought that the questions of university representation and the trial of disputed election cases should not have been made open questions. The Colonial Secretary said that some allowance must be made to the Government as there were two sides represented in the Cabinet. In effect he said that because there was a difference of opinion in the Cabinet the question must be an open one. The same argument might be applied to every question, and, if it were resorted to, we might as well get rid of Governments responsible to the House.

Sir HENRY PARKES: We have not made open questions of other matters.

Mr. GREENWOOD: The Colonial Secretary said he was not going to argue against his colleagues—a promise which seemed to be very modest—but the honorable gentleman did not keep the promise, as he proceeded instantly to argue against his colleagues. The honorable gentleman also said he would not be worthy of his position if he had not stipulated that he was to adhere to his convictions. The Cabinet, then, had given the honorable gentleman leave to adhere to his opinions, and for this privilege he must be truly grateful. If they had not done so he supposed the honorable gentleman would have come down and pitched them overboard. He had listened with great care to the speech of the honorable member for Newtown, and he must acknowledge that the honorable member had stated his view of the case very honestly. In reply to the argument that the committees had been inconsistent in their decisions, the honorable member asked whether the same remark would not apply to the Supreme Court.

The honorable member then went into details, and at once put his finger on the point of difference, by instancing the contrary decisions of the District Court Judges on appeals respecting Corporation rates. There the question was as to what the law meant, and because the Judges differed we had to alter the law. The very fact that we had to alter the law proved that the Judges had reasonable ground for their doubts, therefore that instance proved the superiority of their tribunal—a tribunal consisting of Judges learned in the law and trained to try matters of fact.

Mr. CHARLES: But we had to put them right.

Mr. GREENWOOD: We had to put the law right, which made all the difference in the world. It was said that a committee elected by the House might be supposed to have some bias, and the honorable and learned member for West Maitland tried to repudiate that argument by saying that the Speaker could have no bias. In proof of that assertion he instanced a case in which the Speaker elected to the committee four or five members who had been opposed to his election as Speaker. That was no argument at all. People who were greatly interested in any subject were sure to get a certain bias unconsciously—they could not help themselves. It was not well that people in such a position should be allowed to try matters in respect of which they were unintentionally biassed. He would be the last man in the world to say that members would be wilfully biassed. The questions of elections and qualifications affected both sides of the House, and if we were to select the fittest men in New South Wales, and put them in the midst of all the red-hot party influences which pervaded the Chamber, they would find it necessary to exert an extraordinary amount of self-control to escape the bias growing out of their associations. The Supreme Court was free from such influences. The honorable and learned member for West Maitland had put forth the fact that the committee were under oath as a guarantee for the justice of their decisions. He did not think an oath would be of any value were it not that persons who took the oath knew that they would be liable to punishment if they committed perjury. It was not because they respected an oath that people spoke the truth. Put a simple affirmation on the same footing as regards punishment, and it would be of as much value as the oath. An oath tempted a man to hypocrisy owing to fear of consequences, for he might not speak the truth for the love of it. The Judges of the Supreme Court were under oath, and, so far, the two tribunals were equal. That being so, the question was as to which was the better tribunal to deal with disputed election cases. The man who was trained by education and experience to a knowledge of the law, to weigh evidence and say what was and what was not evidence, was more likely to deal out justice than the man with no training as to law or the rules of evidence. The honorable member for Newtown quoted the Constitution Act to show that the committee had to decide according to the "real justice and good conscience of the case." Did he mean to say that the Supreme Court were not bound to act in a similar way? because, if he did, he made an accusation which implied the necessity for a complete reform of the judicature. If we could not trust the tribunal which had to deal out even-handed justice between all the citizens of the country in thousands of matters according to the "real justice and good conscience of the case," in heaven's name let us save the great bulk of the people from the terrible affliction to which they were being subjected. By attempting to prove the unfitness of the Supreme Court to deal with the cases of disputed elections, the honorable member for Newtown had proved that the Court was unfit to deal with the commonest matter between citizen and citizen, and, to be consistent, he must ask for a reform. The honorable member also said that the trial of the cases in the Supreme Court would be attended with frightful expense. He was not sure that it would not be, but let the honorable member see again what he was proving. Would it be more expensive to settle these cases than it was to settle common matters between citizen and citizen? He presumed it would not, and where was the consistency in allowing citizens to be put to the enormous expense where there were thousands of matters which rendered them liable to it, and objecting to it the moment a proposal was made to refer the small matter of an election

petition to the Court? It seemed that it did not matter a straw about poor citizens who had not long purses. They were to be dealt with unjustly and subjected to ruinous expenses. He suspected the sincerity of the argument. If those who used it felt with profound indignation the injustice about to be done to poor candidates for the honor of a seat in Parliament, they would speak out in regard to the tens of thousands of cases in which injustice would be done to poor citizens. Those who proved too much proved nothing, and he thought the honorable member for Newtown was in that position. The Colonial Secretary said that if the House were capable of creating an ordinary tribunal of justice it must be capable of judging the qualifications of its own members. We might as well say that because the House was capable of making a law it should be the tribunal to judge that law. By parity of reason you could not stop where the Colonial Secretary stopped. You must get rid of the ordinary Court of judicature. We might define the qualifications and privileges of members, but, having done that, our functions ended. If that were not so the law would be made to bend according to the shifting influences on members of the House. He had no desire to refer to the cases of inconsistency on the part of the committee which had been submitted. He had not the slightest doubt that, as a rule, the members appointed to the committee had dealt out what they believed to be substantial justice. But there were discussions in the House as to whether cases should be referred to the committee, and that was where the strong unconscious bias commenced. He had heard an honorable member say that if the House decided to refer his case to the committee he would resign instantly, as he knew what the decision would be.

Mr. S. C. BROWN: Election petitions are referred to the committee without any discussion in the House.

Mr. GREENWOOD: Questions as to the qualifications of members, as well as election petitions, ought to be referred to the Supreme Court. For all the reasons he had advanced he hoped the Committee would decide in favour of the provisions of the Bill.

Mr. MELVILLE felt that he could not give a silent vote on such an important proposal as that certain powers vested in the representatives of the people should be handed over to the Supreme Court. The speeches he had heard in favour of the proposal had only confirmed him in his opinion that the contemplated change ought not to be made. He took it that as we were the law-makers we ought certainly to understand the effect of the laws we made. He could not understand the argument that some person outside who did not know the reasons which prompted us to make the laws should be better able to understand those laws than we did. If such were sound logic we were placed in a peculiar position, inasmuch as we were open to the charge that we made laws which we did not understand. He had all due respect for the Judges of the Supreme Court; he believed that they invariably endeavoured to discharge their duty impartially, but he could not shut his eyes to the fact that owing to the differences of the Judges—on the land law in particular—there had been a vast amount of litigation. Acts passed by the Legislature to simplify matters and to protect the interests of the people had been interpreted in such a way as to become the means of causing, to a great extent, the oppression of the poor by the rich. By referring election petitions to the Court we should be simply giving the opportunity to the rich man to harass the poor man having a seat here. He would be harassed until he had spent in litigation all he possessed, and then he would be forced to relinquish the honor which had been conferred on him by the majority of the electors. Under the Bill one Judge was to decide certain things, but under certain circumstances the whole of the Judges could be called in. Honorable members who had experience of the Courts knew that the merest quibble often prevented the most reliable evidence being taken in the Courts, and investigations were protracted to indefinite periods by the arguments of counsel. If we had any conception of our own dignity, and of the laws which we made, we could always find in the House, as we had in the past, gentlemen of sufficient ability and intelligence to decide on election petitions. The argument that the committee had given contradictory decisions went for nothing, for the Judges had also given

contrary decisions. The honorable member for Camden (Mr. Garrett) had said that the members on the cross-benches were ashamed of their party. Since he had been in the House he had failed to find any parties. He would ask whether there was any danger of the Speaker showing a greater amount of partiality than the Judges would. He thought that a Judge was in no better position than the Speaker in that respect. His principal reason for voting against the provisions of the Bill was that the reference of the cases to the Court would increase the expenses to a very large extent. He considered that the procedure in the Courts should be simplified and the present ruinous charges reduced. There were many men in the country who had been reduced from high positions to the Insolvency Court through the law's delays and the enormous costs incurred. Money ought to be of no avail in regard to the election of representatives of the people, and he should strenuously resist anything which he thought would tend to give the wealthy man any advantage over the poor man in that respect. The honorable members who had argued in favour of the proposal to refer the cases to the Supreme Court had failed to show that by their decisions the committee had inflicted an injustice on any man. He could point to dozens of cases in which injustice had been done by the Judges. To say that we must refer these cases to the Supreme Court was to say that we passed laws in the dark or that we had not sufficient intelligence to determine what they meant. It was all very well to say that the Judges were the best exponents of the law, but the experience of every person ought to show that common-sense often understood the law better than lawyers did. If a man wanted to waste his time and to spend his money, all he had to do was to go to law, and the lawyers would accommodate him in both respects. It was very seldom that one heard of a lawyer being candid enough to tell a client that it would be better for him to settle a case without reference to the Court. It was said that the Judges took no part in politics. If that were so, he would like to know how they were qualified to determine questions which were solely connected with politics. The honorable member for Camden (Mr. Garrett) had asked whether any honorable member would care to take exception to any member appointed to the committee by the Speaker. He did not see anything more objectionable in such a course than there was in taking exception to the actions of Ministers of the Crown. He agreed to a certain extent with the honorable member for East Sydney (Mr. Greenwood) as to the position of the Government in the matter. It would have been far better for them to have taken a determined stand upon the question. For the reasons he had stated he would record his vote for the amendment of the honorable member for Newtown. The very training which had been so eloquently pleaded on behalf of the Judges was a disqualification, and there was reason in the argument of the honorable member for Newtown, that legal quibbles might be imported into election cases. He hoped we should continue the existing practice.

Mr. DILLON said a great many cobwebs had been wound round this matter which it was desirable to brush away before the Committee arrived at a decision. The only real arguments urged against the proposal of the Bill were those of delay and expense, but these inconveniences were not considered when other questions affecting legal tribunals came before honorable members. There was something of far higher importance than the question of expense involved in the matter. It was always considered of prime importance to obtain a satisfactory decision, and side by side with that necessity expense and delay were trivial. The fact that the highest tribunal in the land differed in its decisions, and promulgated contradictory opinions, was no reason why we should refer disputed elections to an inferior tribunal, the decisions of which were likely to be still more contradictory. In urging the expense attending the proposed new practice, honorable members forgot that a man could conduct his own case before a Judge as well as before the existing tribunal. A layman would certainly be unable to conduct the preliminaries of a petition, but he was equally unable to do that in cases referred to the committee. A petitioner would appear before a Judge with greater advantage to himself than if he appeared before the committee. The members of the committee were not used to eliciting

evidence, and left a man to conduct his case as best he could; but whenever a client appeared before a Judge without counsel his Honor felt it his duty to exert himself to ascertain that no injustice was inflicted upon the man by reason of his inability to procure legal assistance. The existing provision with regard to the deposit of £100 was unaltered. An absolutely poor man could not at the present time bring a case before the committee unless his friends were willing to deposit £100 in his behalf. With regard to the argument of delay, petitions would be presented within the same period after the election as at present, and the subsequent proceedings would follow in the Supreme Court as quickly as possible after the presentation of the petition. In reality, there would be no more delay than occurred in connection with the present tribunal. One honorable member said the committee of the House was as competent and impartial a tribunal as could be found. But six or seven gentlemen of various pursuits, chosen at random out of the House, could not possibly be as competent to deal with questions of law as a gentleman who had had that legal training which any one in the position of a Judge was assumed to have had. There could be no doubt that the committee had frequently to determine questions of law. Was not a question of law concerned in the case of the honorable member for the Hastings? The question was whether the five years residence should precede or succeed naturalisation. If his own seat were at stake, and its retention depended upon a question of law, he would be very sorry to have that question tried by our Committee of Elections and Qualifications. On the other hand, if a man had a bad case, it would perhaps be better for him that it should go before the committee than before a Judge of the Supreme Court. If, however, a man had a good case, its reference to the committee would involve a toss-up as to whether he kept his seat or lost it. The same question had once been brought before two different committees within a year and decided by these committees in diametrically opposite ways.

Mr. JACOB: Judges do the same thing.

Mr. DILLON: The Judges gave contradictory decisions, but the danger of those decisions being given was less in the Supreme Court than in the jurisdiction of the Committee of Elections and Qualifications. In the particular case to which he had referred, the language of the Act was ambiguous, and there might reasonably have been a difference of opinion. He did not instance that case as showing that the committee were incompetent to decide these matters, but it did stand to reason that a gentleman engaged in commercial pursuits would be less competent than a Judge to decide a nice question of legal interpretation. As to the impartiality of the present tribunal, no one had accused the Committee of wilful partiality in any of the cases which came before them, and still less had any one dreamt of accusing the Speaker of partiality in selecting the members of the committee from the body of the House. While it was doubtless the Speaker's desire to give as much satisfaction to all parties as he could, and to select the most competent men, he would not say that the Speaker had in all cases done so. It must be remembered, however, that the Speaker was not always in a position to judge of a man's merits. A man's competency for an appointment to the committee could not be judged from what he said in the House or by what he did not say here. To a great extent members where chosen at hazard. It was said that the committee were a perfectly competent tribunal, inasmuch as they had mainly to decide questions of fact. But surely the intellect and culture of the Judge should be taken into consideration? The faculty of grasping facts was as much a matter of acquisition as that of legal interpretation. It was no imputation on the moral character or integrity of members of the committee to say that they were biassed in their decisions by party considerations. It might be rather invidious to bring cases decided by the committee before the House, but, as an instance in which their decision did not give general satisfaction, he thought he might mention the case of Buchanan and Rouse.

Mr. COPELAND: Why did you not take exception to it?

Mr. DILLON: There are no means of doing so; the decision of the committee is absolutely final. As soon as the decision was reported the seat became vacant. He did not mention the case because he had

a personal objection to the committee's decision, for he would rather see the present honorable member for Mudgee in the House than the gentleman ousted by the committee. It was said that in agreeing to refer election petitions to the Supreme Court we were sacrificing a portion of our privileges; but he could not understand upon what ground honorable members wished to retain privileges which were not conducive to the public interest. He could not agree with the honorable member for East Sydney (Mr. Greenwood) in his opinion as to the abolition of oaths; because, although there could be no doubt whatever that there were a great number of persons with whom the only binding effect of an oath was the prospect of temporal punishment, a considerable proportion were influenced by superstitious feelings, and this last-named section was larger than was generally supposed. Our object was to obtain the truth from witnesses, and it was politic to adopt any reasonable means calculated to bring about that result. The removal of the oath, as the bulk of people were at present educated, would inevitably open the floodgates of perjury. If any one dispassionately considered the matter they must conclude that the Supreme Court was the safer as well as the more impartial and competent tribunal.

Mr. O'CONNOR thought the Premier was the only honorable member who had touched the real question at issue. We were not asked to decide whether the Supreme Court Judges had better education than honorable members, but whether the Committee of Elections and Qualifications was the proper tribunal to try the cases submitted to it. One of the principal arguments against the committee was that its members, being political partisans, were likely to be biassed. But every Judge upon the bench had been a party man, and was nominated by a Government. Judges did not lose their political opinions when they were elevated to the bench. The profound convictions they entertained as political partisans were not forgotten.

Sir HENRY PARKES: Three of the Judges have sat upon our committees.

Mr. O'CONNOR: That interjection alone was a sufficient answer to all that had been said against the committee. Any honorable member who voted for the clause before the committee insulted the country, because the inference was that the people had not sufficient intelligence and honesty to return men who were competent to judge of the validity of an election. No profession had been so well represented in the House as the legal profession, and there never had been an occasion when the Speaker was embarrassed in the appointment of a committee through the want of a lawyer. The greatest bungle ever made by the Committee of Elections and Qualifications was made by a lawyer. The Supreme Court was overloaded with work, and we were asked to increase that work without any necessity whatever. Suppose the House were to differ from the opinion of the Supreme Court in reference to a certain election petition, it would be necessary to appeal to the Privy Council, and during the long period occupied by that process the electoral district concerned would be deprived of a representative. Where was the guarantee for a speedy decision?

Mr. MACINTOSH said we had heard a great deal about law, but the committee had mainly to decide questions of fact. The 9th and 43rd clauses were so clear that he did not see how questions of law could arise. No technical legal knowledge was requisite to determine the qualifications of the candidates. Bribery in all shapes resolved itself into a question of fact.

Mr. CHARLES said he had previously spoken in favour of the clause; on reading the Bill, however, he perceived that the reference of disputed elections to the Supreme Court would involve great loss of time, and he should therefore vote for the maintenance of the existing practice. His personal experience satisfied him that the cost of going into the Supreme Court was enormous. He had had to pay £700 for the interpretation of a single document; and the case only occupied two and a half years. The honorable member for Camden had said that the members of the committee must have strong party prejudices, but if one or two members were taken from each side of the House, and a similar number from the cross benches, any party feeling which might exist would be counteracted, and we should be as likely to get a just decision from a committee so constituted as from a Judge.

[*Mr. Dillon.*

Question—That the clause, as read, stand part of the Bill—put, whereupon a division was called for with the following result :—

Ayes	...	...	10
Noes	...	...	25
Majority	...	...	15

AYES.

Mr. Watson,	Mr. J. Davies,
Mr. Lackey,	Mr. Eckford.
Mr. Suttor,	
Mr. Greenwood,	*Tellers,*
Mr. Garrett,	Mr. Dillon,
Dr. Renwick,	Mr. McCulloch.

NOES.

Mr. Wisdom,	Mr. Murphy,
Mr. Hoskins,	Mr. Day,
Mr. Cohen,	Mr. Merriman,
Mr. Farnell,	Mr. S. C. Brown,
Mr. O'Connor,	Mr. Dangar,
Mr. R. B. Smith,	Mr. Fawcett,
Mr. Baker,	Mr. Harris,
Sir Henry Parkes,	Mr. Macintosh,
Mr. Charles,	Mr. Beyers.
Mr. Burns,	Mr. Melville.
Mr. Teece,	*Tellers,*
Mr. Bennett,	Mr. Copeland,
Mr. W. C. Browne,	Mr. McElhone.

Clause consequently negatived.

Mr. DILLON, in personal explanation, said he had inadvertently voted after having paired with the honorable member for Mudgee.

Remaining clauses, Part IV., withdrawn.

Sir HENRY PARKES said that it was his intention to substitute the provisions contained in the present law for those which had been withdrawn; also to amend the schedule in some particulars, and to bring down a new schedule in its place.

Progress reported; committee to sit again on Wednesday next.

LEAVE TO GIVE EVIDENCE.

Message reported from the Council in reply to message from the Assembly, intimating that leave had been given to Mr. G. H. Cox and Mr. E. D. Ogilvie to attend and give evidence before the committee on Assisted Immigration.

LICENSING BILL.

Order of the Day for the second reading postponed till Thursday next.

Sir HENRY PARKES said it was his intention to proceed with the Bill on that day on the assumption that the Electoral Bill would then have been dealt with.

LANDS ACTS FURTHER AMENDMENT BILL.

In Committee; consideration of Council's message.

Mr. HOSKINS said he proposed to ask the committee to assent to the two amendments on which the Council insisted. The Council insisted first upon the new clause 4, which provided that a notification should be given to pastoral tenants, but they had agreed to reduce the time within which the selector was prevented from impounding the lessee's stock, from two months to fourteen days. That part of the clause, as modified, would read thus—

> And no person making such purchase shall acquire any rights of impoundage as regards the stock (unless herded) the property of or depastured by the pastoral tenant upon such leasehold until fourteen days after the date of such purchase.

The Council had also omitted the proviso as to fencing. The question was discussed at great length when the Council's amendments were last before this House, and although the clause was an innovation upon our law, still, as the Council had made so great a concession and as legislation by two Houses must be conducted in a spirit of compromise, he was willing on the part of the Government to accept the amendment. The second amendment insisted upon by the Council was in clause 13, which they previously omitted, but now they had agreed to insist on the omission of the first part only. Honorable members would recollect that the clause, as originally proposed, embodied two principles in regard to pre-emptive leases. The first portion provided that any person should be entitled to take a pre-emptive lease out of a prelease which exceeded 1,920 acres—the area allowed in virtue of the possession of a section of land. The Supreme Court had previously held that one prelease could not be taken out of another. The Council proposed to omit the clause altogether, but the Assembly refused to agree to that, and sent the clause back in its original form. Now, the Council had not insisted on their views to the extent that they omitted only the first portion of the clause which provided that a prelease could be taken out of a prelease of greater extent than 1,920 acres. They had also agreed to that portion of the clause which provided that where there

was not sufficient land upon one run to satisfy an application for a prelease the remainder could be taken out of an adjoining run. That was the original intention of the Act of 1875. Seeing that the other Chamber, where there were so many gentlemen largely interested in pastoral pursuits, had given way on all the main features of the Bill, and seeing the great benefits the Bill would afford, he thought the Committee would do well to accept the amendments the Council insisted upon. He moved,—

That the committee agree with the amendments insisted on by the Legislative Council.

Mr. GARRETT said there was one peculiarity about the Council's message, namely, that it did not, as was the practice, give any reasons for insisting on the amendments. He did not know whether this was a studied act of disrespect or whether it was because the Council had no reasons to give. The amendments, however, required some notice. He did not think the Council had made any concession in clause 4. They had simply modified a dangerous novelty introduced by themselves, and there was no merit in omitting the proviso, because that necessarily followed from the previous amendment. He did not object so much to the notice to the lessee, but legislation was not required for that; it could be done by the instructions of the Minister. The sting was in the latter part of the clause, where the selector was prevented from impounding the lessee's cattle for fourteen days after the date of purchase. If notice were given to the lessee, why should the selector be prevented for any time at all from exercising the rights of ownership? The whole spirit and intention of the clause was to acknowledge in the holder of a transitory lease a right superior to that of the freeholder. He did not, however, regard the matter as of sufficient importance to justify contention. With regard to the 13th clause, the Council had now, for the second time, negatived what this House had twice affirmed, namely, the limitation of protected preleases. This was a matter of some importance, seeing what a power preleases had become in the hands of pastoral tenants; but, considering the very many valuable provisions in the Bill, he was not prepared to risk the Bill upon this point. But he had the satisfaction of thinking that the Council, by insisting in a spirit of selfishness on their amendment in this clause, had unwittingly rung the death-knell of preleases altogether. He thought that preleases, which were an undesirable excrescence upon our land system, ought to be abolished altogether, and the area open to selection increased, he would say to 5,000 acres, for the greater portion of the land now open to selection was suitable for grazing purposes only, and it was worse than a farce to induce a man to select 640 acres of land which could only be used for grazing.

Mr. FAWCETT: Then you would have to classify the lands.

Mr. GARRETT: They would classify themselves; people would take the land that suited them best. All the amendments in our land law during the last seven years had been in the direction of enabling people to take up more land. With safeguards against dummying and black-mailing, and a reduction of the amount of deposit, it would be perfectly safe and advantageous to the country to allow a man to select up to 5,000 acres. Then people with capital would be able to obtain land for pastoral purposes, which they could not do now except by buying out a squatter at an enormous figure. Either the area of selection should be largely increased or an imaginary line should be drawn across the country and all pastoral tenants beyond it given a fixed tenure and made to pay a much higher rental, because there selection was practically barred, and the leaseholders had a monopoly of the land. He accepted the Council's amendment, because it would tend to bring about a state of things which he thought eminently desirable.

Mr. DAY failed to see why any man who purchased land should be debarred for any time from exercising all the rights of ownership. He thought the proposition of the Council was monstrous, but he supposed that we must accept it or risk losing the whole Bill. He would almost prefer to lose it than that such a monstrous provision should become law. He was astonished at the representatives of the people allowing the Upper House to deal with the Crown lands of the colony in this way. None but wealthy squatters would ever attempt such a thing. The other

amendment was equally bad, because we knew well that these preleases enabled Crown lessees to practically get possession of immense areas of country. He, however, consoled himself with the reflection that it would not be long before these clauses were repealed.

Mr. FARNELL did not think the Committee fully understood the nature of the amendments. He was astonished to hear the Minister for Lands say that he agreed with them. The Council was just trying to throw dust in the eyes of this House. They had left as much of the 13th clause as meant nothing at all, and taken out the most valuable part. The lands were fit for pastoral purposes only, which could not be carried on without large areas, and the amendment of the Council would restrict the right of people to take up land. With regard to the 4th clause, he had no objection to notice being given to the lessee, but the provision as to fourteen days was simply ridiculous. A selector was not bound to go upon his selection for three months. The provision was no doubt aimed at those who selected cattle camps, but that was a matter which ought to be dealt with in a manner different from this. He hoped the Minister for Lands would not proceed further to-night. He could not accept the amendments, and would vote against them. Instead of tinkering with the land law, as we were doing, he thought it would be better to do away with this Bill and the Act of 1875 and go back to the law of 1861. He moved,—

That the Chairman leave the chair, report progress, and ask leave to sit again on Wednesday next.

Mr. McELHONE would support the postponement, as an important principle was involved in the amendment. The members of the Upper House were very keen in looking after their own interests; but any measure which did not touch their pockets was allowed to go by the board. Nearly all the land in New South Wales worth having was locked up in preleases. He would just as soon see the Bill thrown out altogether as allow the Upper House to have their way. As far as the selector was concerned the prelease was a sham, and it would be just as well if the system of allowing preleases were discontinued.

Mr. MURPHY did not agree with the statement that clause 4 was a sham. The member of the Upper House who brought it in did not intend it as a sham. The large landholders laid claim to land which they had no right to, and yet we were told the Upper House were making a concession when they reduced the period during which a squatter's stock could graze on selected land to fourteen days after selection. From the moment the selection was made the land belonged to the selector. The claim of the landholders amounted simply to this—that, as they had held the land so long, they should now be presented with the fee-simple of it for so much longer. If it were not for the clause reducing the value of improvements, he would not care if the Bill were thrown out. Where one *bonâ fide* conditional purchaser would be benefited by that clause, however, fifty squatters' dummy selectors would be benefited.

Question—That the Chairman report progress—put, and negatived.

Mr. MELVILLE said the amendments were manifestly in the interests of the large landowners, and he could not help believing the Government were in reality as much opposed to them as any one. As the Committee did not appear to understand the real nature of the amendments in their present shape, he hoped the Government would agree to report progress, supposing they would not adopt the course pursued in 1861, and, through an appeal to the country, force the Upper House to make the necessary alterations in the law.

Question—That the amendments be agreed with—put, whereupon a division was called for with the following result:—

Ayes	15
Noes	8
Majority	7

AYES.

Sir Henry Parkes,	Mr. Beyers,
Mr. Lackey,	Mr. Garrett,
Mr. Suttor,	Mr. Fawcett,
Mr. Hoskins,	Mr. Watson,
Mr. Baker,	Mr. Wisdom.
Mr. Copeland,	*Tellers,*
Mr. J. Davies,	Mr. Harris,
Mr. Charles,	Mr. S. C. Brown.

NOES.

Mr. Farnell,	Mr. Bennett.
Mr. McElhone,	
Mr. Burns,	*Tellers,*
Mr. Day,	Mr. Murphy,
Mr. Melville,	Mr. Dillon.

Question consequently resolved in the affirmative.

On the question that the resolutions be reported—

Mr. FARNELL said he considered the House insulted by the amendments of the Council, and he desired to place upon record his protest against their adoption.

Question agreed to on a division: Ayes, 16; noes, 4. (Div. No. 6. Rep. XVIII.)

Mr. HOSKINS moved,—

That the report be now adopted.

Mr. FARNELL moved, as an amendment,—

That all the words after "That" be omitted with a view to the insertion of the following words:—"the adoption of the report stand an Order of the Day for Wednesday next."

Amendment negatived, on division: For, 4; against, 18. (Votes, 91.)

Motion agreed to; report adopted.

House adjourned at 5 minutes after 12 o'clock p.m.

Legislative Assembly.

Friday, 7 May, 1880.

Great Northern Railway—Glebe Island Abattoir—Adjournment (Interference with Supreme Court Officials—Treatment of a Patient at the Infirmary)—Small Debts Act further Amendment Bill.

Mr. SPEAKER took the chair at half-past 4 o'clock p.m.

GREAT NORTHERN RAILWAY.

Mr. BADGERY asked the SECRETARY FOR PUBLIC WORKS,—Whether it is his intention to make provision on the Estimates during the present session for the amount necessary for the construction of a line of railway to connect the Great Northern Line with Sydney?

Mr. LACKEY answered,—This will depend upon the progress made with the surveys; if they are sufficiently advanced to admit of the route being determined, and an estimate made of its cost, provision will be made for the same on the next Loan Estimate.

GLEBE ISLAND ABATTOIR.

Motion (by Mr. BENNETT, for Mr. MCELHONE) made, and agreed to,—

That there be laid upon the table of this House a return showing,—

(1.) The number of days that a person named Williams, a carpenter at Glebe Island, lately deceased, was employed with a horse and cart, owned by the Government, in carting soil and manure from Glebe Island to the private residence of the Hon. G. Eagar, Under Secretary to the Treasury.

(2.) The amounts paid by the Hon. G. Eagar to the Government for the services of Williams and the horse and cart, and the date or dates when such payment or payments were made.

(3.) The number of loads or tons of sheep manure carted to the railway-station, Sydney, or other places, from Glebe Island, for the Hon. G. Eagar, Under Secretary to the Treasury; and the cost of gathering, bagging, and carting the same per ton or load, and specifying whether the same was put in bags belonging to the Government; and dates when each load was sent.

(4.) The price per ton or load paid for the said sheep manure by the Hon. G. Eagar, and the dates when payments were made by the Hon. G. Eagar for the same.

ADJOURNMENT.

INTERFERENCE WITH SUPREME COURT OFFICIALS—TREATMENT OF A PATIENT AT THE INFIRMARY.

Mr. HURLEY *(Hartley)* moved the adjournment of the House. He said that on the previous evening an officer of the Supreme Court, who was armed with a warrant to levy on certain goods which were about to be removed from the Redfern station by a train on the point of starting, tendered money for his fare in order that he might accompany the goods, but the officials refused to take it. At the same time they allowed the person who owned the goods which were to be distrained upon to proceed by the train. Such an interference with an officer of the law was unjustifiable, and ought not to be tolerated. He had spoken to the Secretary for Works on the subject, and he hoped that he would take steps to prevent the recurrence of such a proceeding.

Mr. LACKEY said that he would make full inquiries into the case, and if he found that the officers of the Railway Department had acted in the way stated by the honorable member, they would be held responsible for any delinquency. It was not right that officials of the department should stand in the way of the execution of their duty by the officers of the law, but they ought to render them every assistance in their power.

Mr. BUCHANAN said that a paragraph had appeared in the *Evening News* in reference to the improper treatment of