

Upon the request of any British court having jurisdiction in bankruptcy or insolvency the court shall act in aid and be auxiliary to such court in all matters of bankruptcy or insolvency and the order of any such court seeking aid shall be deemed sufficient to enable the court to exercise in regard to the matters directed by the order such jurisdiction as either the court which made the request or the court to which the request is made could exercise in regard to similar matters within their respective jurisdictions.

In order to render this provision perfectly efficacious it will of course be necessary that at least as far as this is concerned something like federal action should be taken throughout all the colonies, and that this identical section should be passed in each colony. I have now, I think, fully informed the House concerning the provisions of this important measure. Honorable members will perceive what labour has been bestowed upon its preparation, how largely it alters the existing law, how completely it is in accordance with the views of the commercial classes—who are the most deeply interested in it—with the experience of legislation in England, with our own experience in these Australian colonies. It is a subject of the deepest importance to our commercial character and to our general prosperity. If it simplifies procedure, as I believe it will; if it secures economy in the administration of bankrupt estates, as it is intended to do; if it protects those who have been, without misconduct, subject to misfortune; if it prevents the fraudulent dealing with the assets of bankrupt estates, either by insolvents themselves or by others; if it makes fraud costly, difficult, and perilous, it will purify our commercial character and accomplish a much larger amount of good than measures of a more pretentious nature could possibly attain. In the hope that it will produce some at least of these results, and with the consciousness that no pains have been spared to make it as complete a measure as could be submitted to this House, I now beg to move its second reading, and thank the House for the patience with which it has heard my address.

Sir ALFRED STEPHEN: I move:

That this debate be now adjourned.

The bill being in the hands of honorable members they will, after the explanation of it just given by the Attorney-General, be better prepared to consider its various

provisions. As according to custom it will devolve upon me to resume the debate next week, I reserve the remarks I have to make on the bill until that time. I may, however, now state that possibly I may consider it desirable to suggest that the bill be referred to a select committee. If the committee be selected from those honorable members who are most capable of dealing with such a subject, and they go about their business with zeal and earnestness, I do not anticipate that there will be any undue delay in the progress of the measure, which will probably be accepted with more readiness by the House.

Motion agreed to; debate adjourned.

House adjourned at 6.30 p.m.

Legislative Assembly.

Thursday, 31 January, 1884.

Patent Law—Cost of Constructing Certain Public Schools
—Privilege (Representation of the Electorate of Bathurst)—Committee of Elections and Qualifications (Seat of Mr. Cohen)—Motion for Returns already Ordered and Printed—Privilege (Seat of Mr. Vaughn)
—Crown Lands Bill.

Mr. SPEAKER took the chair.

PATENT LAW.

Mr. POOLE asked the COLONIAL SECRETARY,—(1.) When will he submit for the consideration of this House a bill for amending the patent law? (2.) Is it his intention to follow the example of the British Government in their (46 and 47 Vic. c. 57) act of 1883 in codifying all laws relating to patents, registration of designs, and trade marks under one act? (3.) Will he assist a private member in passing into law a measure for providing provisional registration of inventions, and for cheapening the cost of patents?

Mr. STUART answered,—This bill is in preparation. Its lines will to a considerable extent follow those of the English act, all the laws relating to patents, registration of designs, and trade marks being included in one act under various divisions. I shall be ready to submit it to the House as soon as the state of the public business will enable me to do so.

COST OF CONSTRUCTING CERTAIN
PUBLIC SCHOOLS.

Ordered (on motion by Mr. W. J. FERGUSSON :

That there be laid on the table of this House :
(1.) A return of the expenses of constructing the following public schools, including the money paid for their sites :—Manly ; Double Bay ; Bourke-street, Surry Hills ; Crown-street, Surry Hills ; Glenmore Road (facing), on Underwood Estate ; Darlinghurst.

(2.) The number of teachers, male and female, provided in each school, the salaries paid to each, and the number of scholars attending each school.

PRIVILEGE.

REPRESENTATION OF THE ELECTORATE OF
BATHURST.

Sir JOHN ROBERTSON : I wish to ask the Colonial Secretary whether it is his intention to move that the seat of Mr. Suttor be declared vacant ?

Mr. STUART : It certainly is not my intention to do so. I know of no ground on which I could move, at the present time, that the seat be declared vacant. If Mr. Suttor wished to resign, he could have done so at once.

Sir JOHN ROBERTSON : I beg to move, as a matter of privilege :

That the Committee of Elections and Qualifications having reported that Francis Bathurst Suttor, Esq., the honorable member for Bathurst, was incapable of being elected, or of sitting, or voting, as a member of the Legislative Assembly, the seat of the said Francis Bathurst Suttor, Esq., is hereby declared to be vacant.

The Colonial Secretary ought to know that it is impossible for Mr. Suttor to resign, the Speaker having intimated that he could not do so. How can he resign that which he has not ? What right or pretence has any man or any body of men to keep the constituency of Bathurst unrepresented ? What right have we to keep Mr. Suttor in this position of purgatory for such a length of time ? No one can doubt that the Speaker is right in saying that the seat is vacant, and, this being so, why is it not declared vacant ? I cannot understand the Colonial Secretary taking such a silly course as he seems to be taking in this matter. Mr. Suttor having demanded that the rights of the electorate should be considered, and that he might be put in a position about which there could be no doubt, it seems to me to be an outrage to keep him in purgatory. By all means let him have an opportunity to seek re-election, as he is anxious for it.

It will be too bad to put him in a position of inferiority compared with other honorable members; because that will be his position if we do not adopt the constitutional course which I propose. What right have we, on pretence of doing him a kindness, to put him in a position of inferiority ? What right have we to keep the electorate unrepresented ?

Question proposed.

Mr. STUART : I cannot consider myself amenable to the charge of taking a silly course in regard to the matter. Holding the views which I do, I certainly could not consistently have taken any course other than that which I have followed. It would have been perfectly competent for Mr. Suttor to have intimated weeks ago, or a week ago, the course which he has intimated his intention to take in the event of the Constitution Act Amendment Bill becoming law. I call the attention of honorable members to the terms of the letter which was read here yesterday :

I have the honor to inform you that in the event of the Constitution Act Amendment Bill recently passed by the Legislative Assembly becoming law it is not my intention to take advantage of its provision enabling me to hold a seat in the House, but I will seek re-election at the hands of the electors of Bathurst.

When the bill becomes law, if Mr. Suttor does not like his position, he is perfectly welcome to resign his seat—no one can object to his doing so ; he can resign every week if he likes. I say that at present the House is not in a position to deal with the matter. We have passed a bill in which we have declared that the seat of Mr. Suttor shall not be void or voidable by reason of the circumstance on which we are now asked to declare it void. Moreover, we have sent that bill to the Legislative Council and have asked for its concurrence in this declaration that certain seats shall not be void or voidable by reason of the reference to the Committee of Elections and Qualifications, or by reason of the report of that committee. I maintain that whatever the position and the powers of the House may have been a few days ago we have surrendered those powers for the present by passing a resolution in the strongest form possible—in the form of a clause in a bill which we have passed and sent to the Legislative Council for its concurrence. I say, therefore, that

until the Legislative Council has dealt with that bill it is not in our power to deal with the matter unless we rescind or recall the bill. I have yet to learn that one day the House can pass a resolution and act in direct violation of it the next day without recalling or rescinding it. The bill having gone to the Legislative Council, I certainly confess my ignorance—perhaps the honorable member for Mudjee (Sir John Robertson) will enlighten me—as to any mode by which we can get the bill back from the Council for the purpose of striking out the 4th clause which, it seems to me, must be struck out before we can declare the seat void, otherwise we shall be stultifying ourselves by saying that one day the seat is not void and on the next day that it is. Is that a consistent course of procedure? I cannot say that it appears to me to be so. I understand that the bill has been received by the Legislative Council, but whether the second reading has been fixed for to-day or this day week I cannot say. I am informed that owing to a typographical error it appears on the business paper for this day week, although it was ordered to be set down for to-day.

Sir JOHN ROBERTSON: I am told that in the proof of the notice-paper of the Council for to-day the bill was set down for this day week, but on the revise it appears among the business for to-day. I know that many members of the Council went out of town yesterday as they were under the impression that the bill would not be proceeded with until next week.

Mr. STUART: The honorable member's statement strengthens my argument. The bill may be under the consideration of the Legislative Council at the present moment. If the Legislative Council gives its concurrence to this bill as it stands, in what position will this House appear, if in the meantime it declares contrary to what it declared in the bill? I think that the honorable member for Mudjee must see that the argument as to the hardship to Mr. Suttor is not a good one, as it was perfectly open for him before the bill left this House to have taken the course which he has now taken.

Sir JOHN ROBERTSON: He never dreamt that the House would pass such a bill!

Mr. STUART: The bill was before the honorable members for some time; it was discussed for several days, and I have no doubt, that, as he had a special interest in the matter, Mr. Suttor kept himself informed as to the nature of the bill and the discussion on it. We had a lengthy and an earnest discussion on the point which is surrounded with difficulties on every side, and during the course of the discussion there was ample opportunity for Mr. Suttor to have acted as he has done since, and then we could have dealt with his case by withdrawing his name from the 4th clause. I submit; subject to correction, that it is not competent for this House at this stage to declare the seat void, inasmuch as we have invited the concurrence of the Legislative Council to a bill which provides that it shall not be considered void.

Mr. WISDOM: Mr. Speaker—

Mr. SPEAKER: Does the honorable and learned member rise to speak to the point of order.

Mr. WISDOM: What is the point of order?

Mr. SPEAKER: It is that it is not competent for the House, in the face of its having agreed to a certain clause in the bill which has been sent to the Legislative Council, to declare the seat vacant. Perhaps the honorable and learned member will permit me to give my opinion at once. I cannot agree with the point of order. There is no doubt that under ordinary circumstances this House will not entertain any resolution which may conflict or deal with the subject of any bill or measure which it has transmitted to the Legislative Council for the purpose of its determination. In this case, however, the question is one of privilege. The motion is equivalent to one which may be proposed in the House of Commons for the issue of a new writ, and this course is taken as a matter of privilege, in accordance with the 17th section of the Electoral Act of 1880—which is the same as the 30th section of the Electoral Act of 1858—which provides:

When and so often as a vacancy shall occur in the Assembly upon a resolution by the Assembly declaring such vacancy and the cause thereof the Speaker shall cause a writ to be issued for supplying such vacancy. * * *

It is not for me to determine at the present time what the effect of this motion

will be—that is beyond my province at the present time. If the motion be passed by this House, and the Constitution Act Amendment Bill be agreed to by the Upper House in the form in which it left this House, or in anything like that shape, certainly some complication may arise, but it is not for me now to determine what the effect will be. It is incumbent upon me to say that, as the matter is one affecting the privileges of the House, it is quite competent for the House to deal with it under present circumstances.

Mr. WISDOM : I was surprised at the lame attempt made by the Colonial Secretary to defend the unconstitutional action which he and a majority of the House have taken with regard to the question. One of the arguments used by the honorable member was that the House ought not to proceed with the motion because the Upper House is dealing with a bill sent to them by the Assembly. The bill was sent from the Assembly under circumstances quite different from those which now exist, and it is quite competent for honorable members to vote differently from the way in which they did on the previous occasion. When honorable members voted in favour of the 4th clause of the Constitution Act Amendment Bill they did so under the impression that Messrs. Reid and Suttor wished to have such a bill passed, so as to prevent the necessity for them to go up for re-election. But now we have Mr. Suttor saying "*Nolo episcopari.*" In spite, however, of his saying that he does not wish to be made a member by act of Parliament, there are honorable members who wish that to be done in defiance of the Constitution and in defiance of the constituency which alone has the right to make him a member.

Mr. O'MARA : Why did he not say so before ?

Mr. WISDOM : The reason is that he did not anticipate that the House would do such an unconstitutional thing as to pass a bill of the kind. He waited till he saw what was done, and at the earliest opportunity after the passing of the bill by the House—this most unconstitutional measure—he declined to avail himself of its provisions, and in doing so acted in a manly, straightforward way. Do honorable members suppose that if Mr. Suttor was the only member whose seat was

[*Mr. Speaker.*

implicated the Government would have introduced the bill? If the seat of the Minister of Public Instruction had not been involved, should we have had such a bill brought in? Ministers are afraid to go before their constituents now; they dare not do it, and the object of the bill is really to declare the seat of Mr. Reid valid. The Government flouted the Committee of Elections and Qualifications by the introduction of the bill; they cast discredit on the committee by setting aside its decision in this way, and by their action have raised the question as to whether the committee ought not to be abolished. The Government also flouted the Speaker because he declared, not once but twice, that in his opinion, on a fair interpretation of the statute, the seats of Messrs. Reid and Suttor are vacant. Notwithstanding this the House is attempting to override the decision of the Committee and the opinion of the Speaker. Will the House follow the Government in this unconstitutional proceeding? If they do, I shall be very much mistaken. If they do, the time will come when they will see the gross error which they have committed. The Government may proceed from one unconstitutional course to another until the public will not stand it any longer. I trust that there is sufficient independence among honorable members to prevent them following the Government on this occasion. The Colonial Secretary says that if the Upper House pass the bill, and we pass the motion, there will be complications. Is it likely that the Upper House will pass the bill in its present form if we declare the seat of Mr. Suttor vacant? They will, in that case, omit his name. To show the utter absurdity of the bill, and how unconstitutional it is, I may point out that it is quite competent for any member of the Upper House to move that the name of Mr. Reid be omitted and the name of Sydney Burdekin or any other person be inserted. What a nice state of things may be brought about! We may have a person elected who never was a member, and who never wished to be one. This is the danger of a bill of the kind. When we have majorities as we have had, I will not say in this House, but in other houses, servilely following the government of the day we do not know what unconsti-

tutional things may be done. Even if the late honorable member for Bathurst wished that this bill should pass I should feel bound—although I am an old personal friend and colleague of that gentleman—to vote against it; but Mr. Suttor did not wish that the bill should pass. He does not wish to be made a member of the House in this unconstitutional and unprecedented manner. Why, then, should we make him a member? Why should we exceed our functions in this manner? Why should this House constitute itself an electoral body to make a member of a person whom a body appointed by Mr. Speaker and approved by the House have declared ineligible for membership? Why should we go behind the decision of the committee in this manner and outrage the Constitution by saying that this ineligible person shall be elected a member of the House?

MR. SPEAKER: I must ask the honorable member to avoid as far as possible the discussion of a bill which is now before another branch of the legislature.

MR. WISDOM: I will do so as far as possible; but it is almost impossible to refer to the question without referring to the bill, because the two matters are so intimately connected. Undoubtedly the Colonial Secretary referred to the bill. He pointed out the complications which would arise if the bill were passed by the Upper House, and if this resolution were now passed in this House. It is almost impossible to separate the two subjects.

MR. SPEAKER: The references to the bill made by the previous speaker appeared to me to be only in illustration of the complication which might arise if two contrary courses were adopted; the honorable member did not appear to me to discuss the merits of the provisions of the bill.

MR. WISDOM: Then I will make no further reference to the bill. I think I have made sufficiently clear the dangerous course which the House would take if we refused to agree to this resolution. The argument of the Colonial Secretary as to the complications which might arise in the event of the Upper House passing the bill and the House passing this resolution does not seem to me to be of any value, because it is not at all likely that if we declare the seat of Mr. Suttor vacant the Upper

House will declare him elected. The Upper House would be almost certain, under these circumstances, to omit the name of Mr. Suttor. If the Minister of Public Instruction chooses to accept his seat at the hands of both houses of the legislature, in God's name let him do so; he is quite welcome to it. The legislature cannot compel Mr. Suttor to become a member of the House when he declines to accept that position in the teeth of the Constitution and of all that is right and proper.

MR. BUCHANAN: I can with great pleasure oppose the motion now before the House, seeing that I have always held that the seat of Mr. Suttor has not been vacant. I have always contended that the mere omission to publish a proclamation in the *Gazette* cannot invalidate a seat. I should be sorry to think that any such technicality could prevail over an election. I am confirmed in this view by the fact that this particular election took place when the honorable member for Tenterfield was Premier, and that that honorable gentleman waived the proclamation in the *Gazette*, such little importance did he attach to its necessity as tending to validate a seat. I have always held that if the Government had not been taken by surprise, if they had resisted the reference of this proposal to the Committee of Elections and Qualifications, the resolution which contained that proposal would have been rejected by a large majority. Honorable members will recollect that the House uttered scarcely a word upon the subject. The second reading of the Land Bill happened to be upon the paper for the night on which the resolution was moved, and honorable members were so impatient to reach that important item of Government business that they paid no attention whatever to this resolution. Honorable members referred the question to the Committee of Elections and Qualifications in order to get rid of it. Holding these opinions, I am clearly justified in voting against a resolution to declare vacant the seat of Mr. Suttor. It is said that the decision of the Elections and Qualifications Committee is final. I dispute that contention, and I say that no parliament ever goes to the length of divesting itself of all authority—of clothing a committee with its own powers. Parliament always re-

serves to itself the right to reject, condemn, or dissent from the opinion of the committees, whoever they may be; for whatever purpose they may be appointed. This has been uniformly done; it is the law and practice of Parliament. On several occasions when the Committee of Elections and Qualifications appointed by this House has presented its report the House has dissented from it, and notoriously so in the case of Mr. Love, who was reported to be a contractor, and therefore not eligible for a seat.

Mr. PIGOTT: That was under an altogether different section!

Mr. BUCHANAN: I do not care under what section the House acted; this House dissented from their report. What is it to us under what section the House acted? This is an example of the wretched technical mind which is brought to bear upon the consideration of this question. I go upon the broad view that the report of the Committee of Elections and Qualifications is not final, and that the House may dissent from and abolish their decision. Then an honorable gentleman tells us that this is done under a particular section! What do I care under what section it is done? That is no answer to my argument; it only serves to show the puerility of the answer. The case of Mr. Love being referred to the Committee of Elections and Qualifications the committee decided that he was not capable of sitting; but immediately the report was brought up the House, by a large majority, decided against it.

Mr. GARRETT: By a party vote!

Mr. BUCHANAN: I do not care what the vote was; it was given in dissent from the decision of the committee.

Mr. CAMERON: Does the honorable and learned member contend that the seat of Mr. Suttor is not vacant at the present time?

Mr. BUCHANAN: Certainly it is not.

Mr. CAMERON: Suppose an honorable member, against whose eligibility the committee have reported, and whose seat has not been declared vacant, writes to Mr. Speaker, respectfully asking him whether he will take such steps as will enable the constituents of the honorable member to be represented, is his seat vacant under these circumstances?

[*Mr. Buchanan.*]

Mr. BUCHANAN: Unquestionably not. The better way under the circumstances would be to address a letter to Mr. Speaker resigning his seat.

Mr. CAMERON: The honorable and learned member cannot be aware of Mr. Speaker's ruling, with which I quite agree, that upon a fair interpretation of the statute there can be no doubt but that the honorable member's seat is already vacant.

Mr. BUCHANAN: I was observing that the House had repeatedly dissented from the reports of the Committee of Elections and Qualifications.

Mr. CAMERON: That is not so!

Mr. BUCHANAN: I do not envy that man who supposes that this House can emasculate itself to such an extent as to part with its principal powers. Furthermore, while Parliament is sitting no seat can be declared vacant, unless by the passing of a motion to that effect. Not only did the House dissent from the opinion of the Committee of Elections and Qualifications in the case of Mr. Love; but, showing that it was not the practice of the House to consider the report of the Committee final, a similar course was pursued in the celebrated case of Mr. Horace Dean. The honorable and learned member for Morpeth doubts whether we should have had this bill had not Mr. Reid been a member of the Government. I ask whether if Mr. Reid had not been a member of the Government we should have had this resignation on the part of Mr. Suttor. Is it not a fact that that resignation was put in for the sole purpose of distressing and embarrassing the Government? Any one with half an eye can see the object of it. Surely the House will not be deluded by such a device—such a palpable endeavour to perplex, annoy, and nonplus the Government. Holding the opinions I do—believing that neither the seat of Mr. Reid nor the seat of Mr. Suttor is vacant—I shall find great comfort in assisting honorable members to reject the resolution.

Mr. BURNS: No one, I think, will be surprised at such an expression of opinion on the part of the honorable and learned member for Mudgee (Mr. Buchanan). The honorable member is never backward in showing his utter disregard of law and authority. He has on many occasions

declared that he aspires to be an advocate, not a lawyer. The arguments which the honorable and learned member has used to-night betray an utter disregard of the circumstance that we have in our parliamentary system—and it is also contained in the parliamentary system of England and of all the colonies—a committee of elections and qualifications appointed by Mr. Speaker and sworn to do justice in all matters in relation to the elections and qualifications of members. In the case with which we are now dealing the committee—having the final power under the law to decide any matter which may be referred to them—have decided in respect to Mr. Reid and to Mr. Suttor that at the time of their election neither of them were capable of election; that they were not, therefore, legally elected; and that they have not been legally members of the House since they took their seats for East Sydney and Bathurst respectively. If the contention of the honorable and learned member that the committee do not finally decide these matters be tenable, where is the necessity for the bill which the Government have introduced to override the recent decision of the committee, and which requires the concurrence of the other branch of the legislature and of the representative of the Queen before it can become law? The case recently referred to the committee was unquestionably one for their final decision. There is a wide distinction between the case of Mr. Love and this particular case. There is a wide distinction between the committee reporting upon a particular point which may be referred to them and their dealing with a case which is referred to them for their adjudication.

Mr. BUCHANAN: What is the distinction?

Mr. BURNS: In one case the House refers to the committee a particular point. It is considered by them, and they report upon it; they do not decide. But when a question touching the legality of an honorable member's seat is referred to them for report their decision is final. The fact that the Government introduced a bill to override the decision of the committee should convince the honorable and learned member that in their opinion at least the decision of the committee was final. The case of Mr. Love was re-

ferred to the committee in order that they might determine whether he had accepted a contract. The committee reported upon this matter for the information of the House; they did not decide as to the validity of the seat. They reported that Mr. Love had taken a course which rendered his seat liable to be declared vacant by the House. There is a wide distinction between asking the opinion of the committee in a case of that kind and asking for their decision in such a case as that of Mr. Reid or Mr. Suttor. If the committee were not a court of record, with the power of final judgment, where is the necessity for the bill, which the Government recently asked the House to pass? The Government knew perfectly well that the mere vote of the House would not set aside the decision of the committee of Elections and Qualifications. They introduced their bill with the avowed object of rendering these seats valid from the date of the last election. The Colonial Secretary seems to overlook the circumstance that the rights of the electors of Bathurst are entitled to consideration in this matter. A bill to validate the seat of their representative has been sent to the Upper House; but the honorable member says that he will not avail himself of the provisions of the bill if it be passed, and we do not know how long the bill may not be hung up in the Upper House. It is notorious that some honorable members of the other branch of the legislature are strongly opposed to the bill upon constitutional grounds. There is a prospect of the measure being strongly opposed in the Upper House, and under these circumstances Mr. Suttor asks that his constituents may no longer be deprived of that measure of representation to which under the Constitution Act they are entitled. It is asked, "Why did not Mr. Suttor take this course some time ago?" I think it would have been improper for Mr. Suttor to resign until this House had determined what course they would take relative to the report of the committee and in the face of the fact that the Government had announced their intention to deal with the question. Immediately Mr. Suttor heard that the House had passed a bill giving to him—as the Government conceived—the right to a seat here he at once intimated his

intention not to avail himself of the provisions of the measure, and asked that his seat might be declared vacant. Any complications which may arise will result from what appears to me to be the unconstitutional course pursued by the Government in asking the House to assume the right of electing to this Chamber a gentleman who has been declared to have been not legally elected by his constituency. Mr. Suttor having made the request to which I have referred I think this House will take a very improper course if they do not declare the seat vacant. The electors of Bathurst have a right to expect that they will be afforded as soon as possible an opportunity to elect a representative.

Mr. J. P. ABBOTT: I should like to point out that the honorable member for Bathurst has shown no great hurry to consider the interests of the electors of Bathurst. It was within his power, or the power of those friends of his who are so anxious that the electors of Bathurst should be represented, to move, after the report of the Elections and Qualifications Committee had been brought up, that the seat of the honorable member be declared vacant; but they did not adopt that course. They did not know then what course the Government intended to take, nor does it follow of necessity that the Government must take any course as the result of the report of the Committee of Elections and Qualifications, it being no more the province of the Government to move a resolution consequent upon the report than it is the province of any honorable member, if we are to be guided by the precedents of previous parliaments. The Committee of Elections and Qualifications brought up a similar report in the case of the honorable member for The Clarence, but no action was taken by the Government on that occasion; and it was quite competent for any member of the House to move a resolution with reference to the seat of the honorable member for Bathurst. But what does that honorable member do? Six days after the bill was passed by this House he sends in a letter which means nothing, which is not a resignation, because there is nothing to resign; and his friends came forward in a state of feverish anxiety to preserve the rights of the electors of Bathurst. Will it matter much if the House allows five or six days more to

elapse? Will the people of Bathurst be likely to suffer much if the present disability continues for that time longer? I do not think they will suffer very much by the loss of their member for five or six days; I do not say this as any reflection upon the honorable member, but there has not been so much work done during the last few days as to lead us to suppose that the people of Bathurst will suffer greatly by being unrepresented a few days longer. More than this: the report of the Elections and Qualifications Committee was brought up on the 16th of January, yet it was not until yesterday that the honorable member thought of the position in which the electors of Bathurst are placed. The honorable and learned member for Morpeth, who has taken a great interest in this question, objected to the seat of the honorable member for Bathurst being included in the reference to the Committee of Elections and Qualifications, although he knew that the circumstances in the two cases were precisely similar, yet now he is anxious that the seat of the honorable member should be declared vacant; and he has pointed out a number of possibilities that may happen to the bill in the other House, thereby assuming that that House may do something which would better become lunatics than legislators.

Mr. GARRARD: As one of those who voted for the second reading of the bill I do not think I should be stultifying myself by voting for the motion now before the House. I voted for the bill on the understanding that I should contest warmly that portion of it which refers to the seats of Messrs. Reid and Suttor. It seems to me that by the action of the honorable member for Bathurst himself the case has assumed quite a different complexion. As to the decision of the committee, I am compelled to regard it as final, although I regret very much that the House should have delegated its power to a subordinate body. The case of the honorable member for The Clarence to which the Minister for Mines referred, was in no respect similar to the case of Messrs. Reid and Suttor.

Mr. J. P. ABBOTT: I only referred to it to show that it was not necessary for the Government to move a resolution as

[Mr. Burns.

the result of the report of the Elections and Qualifications Committee. I did not mean to say that there was any similarity between the two cases, because there is none.

Mr. GARRARD: I quite agree with the honorable member that it is not incumbent on the Government to move that a seat be declared vacant in consequence of the report of the Elections and Qualifications Committee. Mr. Speaker distinctly laid it down that it was within the province of any member of the House to move such a motion, but the House in its wisdom allowed the matter to stand over until they saw the result of the action the Government intended to take; and I apprehend no one would have gone further had not the honorable member for Bathurst interfered in the way he has and asked to be relieved from the peculiar position he occupies. I do not pretend to believe that the honorable member is entirely actuated by a newly-awakened zeal on behalf of the electors of Bathurst; there may be some desire to create a little embarrassment for the Government; but holding the views I do I feel bound to vote for the motion.

Mr. FLETCHER: I am one of those who voted for the validating bill, because neither of the gentlemen concerned was responsible for the disability under which he was placed. But when one of the gentlemen desires to resign his seat will the House say that he shall not? Suppose the late representative for East Sydney, Mr. Reid, also desired to resign, would the House have said to both these gentlemen, "No, we will not allow you to resign, but we will make you members by act of Parliament, and the electors of Bathurst and East Sydney shall have no voice in the matter." If any other honorable member chose to resign, would there be a quibble of this kind? Besides, I question whether Mr. Suttor was ever consulted as to the inclusion of his name in the bill.

Sir JOHN ROBERTSON: He was not!

Mr. FLETCHER: That being so, why should we conclude that he wished to shield himself behind an act of Parliament?

Mr. J. P. ABBOTT: He can resign after the bill passes!

Mr. FLETCHER: Why should he wait until the bill passes? And if the bill never passes—what then? We have been told

by Mr. Speaker that had the House not been in session he would have issued writs for new elections, and that he only refrained because he did not wish to take upon himself the function of the House in declaring the seats vacant. Under the circumstances, I maintain that if either of the gentlemen prefers to trust to the good sense and good feeling of the electors rather than to the consideration of Parliament, we have no right to stand in his way, and I shall therefore vote for the motion.

Mr. TIGHE: I do not know whether the Colonial Secretary has given up the argument he urged the other night, that the decision of the Committee of Elections and Qualifications was not final, and that therefore the seats of Messrs. Reid and Suttor are not vacant; but if he still holds the argument, I should like to point out that it leads to consequences more serious than he anticipates. The honorable gentleman contended that because there was an act of the Imperial Parliament which provides that when the provisions of a colonial act are repugnant to the provisions of an imperial act the colonial act shall be null and void so far as that repugnancy extends, and because certain provisions of the Electoral Act, which is a colonial statute, were inconsistent with certain provisions of the Constitution Act, which as a schedule to an imperial statute is itself an imperial statute, therefore the provisions in the Electoral Act were null and void. But I would point out that the imperial act, which authorises her Majesty to assent to the Constitution Act, overrides that imperial act which provides that colonial statutes which are repugnant to imperial statutes are null and void. If it does not, the consequences are something tremendous; for our Electoral Act is repugnant in twenty different points to the Constitution Act, and, as a matter of fact, there is no legal legislative assembly in existence. The Electoral Act alters the distribution of seats as provided for in the Constitution Act; it alters the qualification of members as provided for by that act; and in many other respects it is repugnant to the Constitution Act.

Mr. BUCHANAN rose to order. The honorable member for Northumberland was replying to a speech of the Premier in a previous debate.

Mr. BURNS said the honorable member was referring only incidentally to the arguments of the Premier.

Mr. SPEAKER: The practice is that no more than a merely casual or incidental reference may be made to what has taken place during a previous debate. The strict rule is that no reference can be made to a previous debate, but the practice is to allow a merely casual or incidental reference. If the honorable member for Northumberland instances particular arguments used in a former debate in order to controvert them, at the same time quoting from it (which may be done otherwise than by reading), that is not a casual reference but a categorical reply. The honorable member may, however, easily put himself in order.

Mr. TIGHE: If there is any member present who holds that our Electoral Act is null and void so far as it is repugnant to the Constitution Act, and the argument is a good one, it follows as a necessary consequence that there is no legally-constituted legislative assembly in the colony. I maintain, however, that that is not the case, inasmuch as the 4th clause of the act, which authorises her Majesty to assent to the Constitution Act, enables this legislature to make any alteration in the Constitution Act in the same way as we may make any alteration in any other law; therefore the Electoral Act, I presume, is a good and valid one, and according to that act the decision of the Elections and Qualifications Committee is final in such cases as the present case, though not in every case. In a case where a member takes a contract from the Crown it is not lawful for the Elections and Qualifications Committee to finally decide, but in such a case as that of Messrs. Reid and Suttor they do finally decide. The committee declared that their seats were void from the beginning. The committee cannot deal with the case of a contractor until the House has first pronounced that he has done a thing which has rendered his seat liable to be declared void. In such a case there is no occasion to refer the question to a committee. What is the position of affairs now? We are going to make a private gentleman a member of Parliament actually against his will. It was bad enough, indeed, to want to make a private gentleman

[*Mr. Tighe.*

a member by act of Parliament even when it was assumed that he wished it to be done. No doubt this was a great departure from sound constitutional doctrines; but to say that we will drag him in here against his will after he has protested against it is monstrous in the extreme. I cannot see how honorable members can vote against the motion. What are we asked to do? We are asked to tell the truth or to tell a direct palpable falsehood—we are asked to say whether Mr. Suttor's seat is or is not vacant. If it is vacant—and no one will say that it is not,—and we by our vote say that it is not, we tell a deliberate falsehood. We must not depart from the strict rule of right and justice when we are acting in a judicial capacity. It must be remembered that we are not acting in a legislative capacity; we are not expressing our opinion as to what the law ought to be; we are not in a position where we may import into our deliberations a hundred different influences to guide us—such as the wish of our constituents, the interest of our party, regard for the persons interested, and many other things which may influence us in giving a vote as to what it is expedient to do,—but we are acting judicially. We are in the same position as a judge on the bench, and for us to deliberately declare that which is a palpable falsehood would be altogether improper and wrong.

Mr. BUCHANAN: We say that it is not a falsehood!

Mr. TIGHE: Those who hold the same opinion as the Secretary for Mines will recollect that in his speech the honorable member candidly admitted that Mr. Suttor is not a member of the House. He asked, "How can Mr. Suttor resign a seat which he does not occupy?" Is not this precisely what I have been contending for: that Mr. Suttor is not a member of the House, and is not willing to be made a member by act of Parliament, as his letter shows. Yet some honorable members want to drag him in here against his will. Some men are born great, others achieve greatness, and we are asked to thrust greatness upon Mr. Suttor, even against his own inclination.

Mr. PIGOTT: I desire to say a few words on the subject. The honorable and learned member for Morpeth in the course of his speech said that the Government

and the House had flouted the Committee of Elections and Qualifications. If I thought that for a moment, I, as a member of the committee, should consider it to be my duty to at once resign my seat as a member of the committee. I do not look upon the action of the Government and the House in that light. The bill included a clause validating the seats of Messrs. Reid and Suttor; this clause would not have been necessary if the decision of the committee was not regarded as final. The honorable and learned member for Mudjee—whose opinion on a question of law is not regarded as of much value—has referred to the cases of Love and Dean. The other night the honorable member for The Macleay showed that the honorable and learned member was entirely wrong in his statement of the facts of Dean's case. As the honorable member for The Hunter said to-night, the honorable and learned member altogether ignores facts unless they suit his purpose.

Mr. BUCHANAN asked whether the honorable member was in order in referring specifically to a previous debate?

Mr. SPEAKER: The honorable member can only make casual or incidental reference to the previous debate. He cannot go into the arguments then used categorically and refute them now. No doubt it is difficult to discuss the question involved in the motion without referring to matters which were discussed in the previous debate. I ask honorable members to avoid as much as possible reference to the bill which is now before the Upper House.

Mr. PIGOTT: The honorable and learned member for Mudjee said that the House disagreed with the report of the Committee of Elections and Qualifications in Dean's case.

Mr. BUCHANAN: No, I referred to Love's case in which the House voted against the decision of the committee!

Mr. PIGOTT: I am told by honorable members who were in the House at the time that the House did not disagree with the report of the committee in Love's case.

Mr. BUCHANAN: That is hearsay evidence!

Mr. PIGOTT: I prefer to take such hearsay evidence in preference to any statement made by the honorable and learned member.

Mr. BUCHANAN: You are lawyer enough to know that that is not evidence!

Mr. PIGOTT: My advice to the honorable and learned member is to say nothing about law in the presence of lawyers. The honorable and learned member seems to fail to comprehend the distinction between two sections of the Constitution Act. In the 18th section of the act—the section under which the case of Messrs. Reid and Suttor comes—it is provided that:

Any person holding any office of profit under the Crown * * * shall be incapable of being elected or of sitting or voting as a member of the Legislative Assembly

There is an express declaration of incapacity, and in such cases, under the provisions of the Electoral Act, the decision of the Committee of Elections and Qualifications is final. Love's case came under the 28th section of the Constitution Act. By the first part of this section a person holding a contract on account of the public service is disqualified from being elected a member. The latter part of the clause provides:

If any person being a member of such Council or Assembly shall enter into any such contract or agreement or having entered into it shall continue to hold it his seat shall be declared by the said Legislative Council or Legislative Assembly as the case may require to be void.

The seat is to be declared vacant by the Assembly; but in the other section there is no such qualification. This is the distinction which the honorable and learned member cannot see, but which any man having ordinary common-sense must see at once. I am pleased to know that, after all that has been said about the Committee of Elections and Qualifications, they are supported in their action and their contention that their decision is final in cases referred to them under the 18th section of the Constitution Act by such a high authority as the Speaker—a gentleman who understands his duty as Speaker thoroughly, and has the advantage, being a lawyer, of understanding the laws of the country and the laws which he is called upon to administer. The Government admit that the decision of the committee is final by bringing in a bill containing a clause validating the seats which the committee declared to be vacant. As I have contended before, I think that in passing that clause the House followed a course for which there is no precedent, and which

will be hereafter quoted to the possible danger of the Constitution. But the question now is what we are to do with regard to the motion? When the bill was before us I refrained from voting because I thought that as a member of the committee it would not be right for me to vote on the particular question involved. The motion involves a different question, and I shall feel perfectly justified in voting for it because it accords with the decision of the committee—a decision which was arrived at after careful investigation into, and consideration of, the circumstances of the case. Four or five days were occupied by the committee in considering the case; we gave it all the attention we possibly could; we had a desire, if we could honestly do so, to maintain the gentlemen in their seats, recognising that it would be to a certain extent unfair to them that they should be put to the expense and trouble of an election; but, bearing in mind that we had taken our oath to do our duty faithfully, we could not, notwithstanding the considerations which I have mentioned, avoid bringing in the report which we did. I think that the course taken by Mr. Suttor deserves the warmest approbation; he has taken a manly course; it may be that he might have done it earlier—I think that it would have been better if he had resigned before the committee sent in their report. He has taken an honest course in saying that he will not be made a member by the voice of Parliament, but that he will go before the proper tribunal—the electors of Bathurst. He is quite right in saying, in effect, that if he is to be a member he will be the representative of Bathurst, and not of the majority sitting at the back of the Government in this Parliament.

Mr. S. A. STEPHEN: It seems to me that honorable members have not been discussing the question before the House, which has no relation to the point whether the decision of the Committee of Elections and Qualifications is final. For my part I regret exceedingly that Mr. Suttor has taken the course which my honorable colleague applauds so much. Certainly there would have been better ground for expressing approbation if Mr. Suttor had taken that course at a much earlier stage of the proceedings. I can hardly think that the course is taken now, as is repre-

[*Mr. Pigott.*

sent, in the interests of the constituency. If Mr. Suttor had taken that course at an earlier stage, we should have been saved a great deal of trouble in connection with the bill which we have sent to the Upper House. The motion to declare Mr. Suttor's seat vacant having been made there is no course open to me but to vote for it. If the motion had been made before the bill was passed, it must have been carried at once. The bill has not yet the force of law, therefore I cannot help voting for the motion which simply upholds the decision of the Committee of Elections and Qualifications.

Mr. SLATTERY: I must confess that I am somewhat surprised at a motion of this nature being proposed at this stage of the case relating to the qualification or disqualification of Messrs. Reid and Suttor. I certainly take a view different from that expressed by the majority of honorable members. If Mr. Suttor is so anxious to act in the interests of the electors of Bathurst, let his seat be validated, and then let him resign.

Mr. GARRETT: What right has Parliament to confer a seat?

Mr. SLATTERY: What does the motion mean? Let us look at things straight in the face. Is it not a very adroit move on the part of the Opposition? Why is it that Mr. Suttor did not send his letter to the Speaker, and that a motion was not made to declare the seat vacant, before the taxation proposals of the Government were made known? Do honorable members suppose that if the taxation proposals had not been made we should have heard anything about the letter or the motion? I contend that the Committee of Elections and Qualifications decided on a point which was not submitted to them, and therefore their judgment is a nullity. If I were in the position of Messrs. Reid and Suttor, I should face the House and the Supreme Court, and all the pains and penalties provided by the Constitution Act; I should take my seat and ignore the decision of the committee. Let honorable members read the reference to the committee, and they will see that the report of the committee is on an entirely different point. I acknowledge that there is a fault in the wording of the motion of reference—that it does not mean what was intended; but with that we have

nothing to do. No doubt the members of the committee got certain impressions on their mind from the debate which took place.

Mr. PIGOTT : Not at all !

Mr. SLATTERY : If the motion of reference means anything, it is that the committee were to decide whether Messrs. Reid and Suttor were incapable of being elected, because a notice was not published in the *Gazette* declaring that they were incapable of being elected.

Mr. WISDOM : That is a miserable quibble !

Mr. SLATTERY : It may be said that the whole case rests on a miserable quibble ; I do not say so. The point raised was a good one, but it was not contained in the motion of reference to the committee, and I contend that all that the committee can take notice of is the bare reference sent to them under the hand of the Speaker.

Mr. COMBES : Nonsense !

Mr. SLATTERY : I will undertake to put my seat against the seat of the honorable member if I am wrong on this point.

Mr. COMBES : More nonsense !

Mr. SLATTERY : I will stake everything that I am worth on the strength of my contention.

Mr. COMBES : Still further nonsense !

Mr. SLATTERY : There is no argument in the exclamation of the word "Nonsense !" Let the honorable member show that the committee have power to go outside the reference.

Mr. COMBES : I will !

Mr. SLATTERY : With regard to the motion, I shall vote against it because I think that this kind of thing is simply trifling with Parliament.

Mr. LYNE : Was there not trifling with Parliament in the bill ?

Mr. SLATTERY : I was prepared to vote for a bill to validate the seats of Messrs. Reid and Suttor. I did not wish to interfere with the functions of the electors of East Sydney and Bathurst, and the bill does not provide for any such interference, inasmuch as Messrs. Reid and Suttor were returned to the House by the electors. An adroit move is now made by those who are mainly responsible for the terrible blunder to turn Mr. Reid out of the House.

Mr. GARRETT : No one wants to turn him out !

Mr. FLETCHER : He can resign his seat !

Mr. SLATTERY : The honorable member acknowledges that Mr. Reid still holds his seat.

Mr. GARRETT : I say that he does not !

Mr. SLATTERY : I say that he does, and no one knows better than the honorable member that I am right.

Mr. MURRAY rose to order. The Speaker had ruled that the committee were right in their decision ; he had ruled that the seats of Messrs. Reid and Suttor were vacant. The honorable member for Boorowa was practically disputing that ruling.

Mr. SLATTERY (on the question of order) said that he was not disputing the ruling of the Speaker, who, he presumed, could not go beyond the actual report of the committee. He contended that he was quite in order in pointing out that the committee went beyond their order of reference—that their decision was not founded on it. This was a point upon which the Speaker had not been called to give an opinion. He wished to have the Speaker's ruling on the point as to whether the decision of the committee was justifiable on the reference submitted to them.

Mr. YOUNG contended that the proper time to take exception to the report of the committee was when it was presented.

Mr. SPEAKER : This is not a motion for the adoption of the report of the committee. In dealing the other night with the question as to whether it was proper for me to issue a writ I had incidentally to consider the precedent question whether the seats were vacant, and I gave the opinion that they were vacant, at the same time expressing myself in certain terms as to my powers and my obligations to the House. It seems to me that that opinion as applied to the decision of the committee must be considered as a ruling and a ruling which can be challenged only by motion on notice. It is not a fact, as supposed by the honorable member who raised this point of order, that I ruled the committee to be right. It is not for me to rule either one way or the other upon that point. But my having come to the decision that the seats were vacant involved my being of opinion that they had determined the point referred to

them. I was driven to that conclusion from the fact that I was bound to take notice of the observations made in the debate. It is clear to me, upon my construction of what was said in the course of the debate, that the question referred to the committee was whether these honorable gentlemen were not incapable of being elected by reason of the omission to publish a certain proclamation of capacity. I have given my ruling upon the question, and that ruling can be challenged only by motion of which notice must be given.

Mr. SLATTERY: I hope it will not be understood that I was taking exception to Mr. Speaker's ruling. Mr. Speaker naturally enough took the decision of the committee to be final; but I venture to say that we should be brought face to face with a very different state of things if a resolution were moved affirming that the judgment of the committee was not in accordance with the question referred to them. I am bound to acknowledge that Mr. Speaker is perfectly correct in the opinion that he can take no notice of anything save the judgment. The question as to whether the evidence taken by the committee is binding or conclusive as regards the reference is quite another matter, of which Mr. Speaker can take no cognisance.

Mr. SPEAKER: The honorable member is putting a somewhat strained construction upon what I have said. What I meant to say was that in giving my opinion that these seats were vacant I was obliged before I could arrive at that opinion to arrive also at the conclusion that the Committee of Elections and Qualifications had properly interpreted the reference made to them; that is to say, they were bound, taking that reference in connection with the debate, as I did, to construe it as a reference to them of the question whether two honorable members were not rendered incapable of being elected or of sitting, by reason of the omission, to publish in the *Gazette* a proclamation of capacity.

Mr. SLATTERY: The point which I am endeavouring to impress upon the House is this: that in my judgment the proper way would be for Mr. Reid and Mr. Suttor, if they were anxious to go before their constituents, to wait until the validating bill had been passed. We, this

[*Mr. Speaker.*

Parliament, have the power to decide who shall and who shall not be electors, and surely we have a perfect right to say that innocent persons shall not be punished in consequence of the non-issue of a proclamation! As the law-makers of the country we can say that no man under the age of forty, or of thirty, or that no person unless possessed of a certain amount of property, shall be entitled to vote for the election of members to this House. Surely, then, we can remove this injustice! Here are two individuals who, by a mere act of omission, of which they were not guilty, find that they have been improperly holding high offices, voting here night after night, drawing salaries voted by Parliament, sitting in the Executive Council and deciding questions affecting the life and liberty of their fellow-subjects—perhaps giving a vote determining whether a person shall or shall not be executed to-morrow morning—who find, I say, that by the mere omission of this proclamation they have been doing all these things illegally. The Government propose to validate these illegal acts, and honorable members opposite say, "You are interfering with the rights of the electors of East Sydney and of Bathurst." Talk about quibbling! This seems to me to be about the most contemptible quibbling we could possibly hear. I have great respect for the point taken in the first instance by the honorable member for Mudgee; that, in my opinion, is far above a quibble; but the objections which have been raised to this validating bill, and which would punish two innocent men, are in my opinion contemptible in the extreme. To say that the Upper House will not agree to a bill which is rendered necessary by a mere technical omission is to say that the representative branch of Parliament does not understand its duty. I believe that the other branch of the legislature will not so far forget what is due to this House as to interfere with the course which we may think fit to take with reference to seats in this Chamber. Suppose the want of a proclamation were to render invalid the seats of five or six gentlemen who for many years have been sitting and voting in the Legislative Council, and that a bill were passed by the Legislative Council to validate those seats, would honorable members of this Chamber, upon some

technical ground, take a course which would have the effect of driving out of the Upper House the five or six illegal members? I wish to draw the attention of the House to the different positions which would be occupied by Mr. Reid and by Mr. Suttor if those gentlemen were forced to seek re-election. Mr. Suttor is very popular in his electorate, and I have no doubt that he would be returned to this House by his constituents with a triumphant majority.

Mr. WISDOM: His majority at the last election was sixteen votes!

Mr. SLATTERY: And I would remind the honorable member that the gentleman who opposed Mr. Suttor now has a seat in this House. If the validating bill were not to pass, and if I had 10,000 votes at Bathurst, I would cheerfully go there to record them in favour of Mr. Suttor. I hope honorable members will not take advantage of a mere technicality to deprive any man of his seat in this House. Now, with respect to the position of Mr. Reid, why did not the Opposition take this course before the financial proposals of the Government were laid before the country?

HONORABLE MEMBERS: Oh, oh!

Mr. SLATTERY: That is exactly the point, and no one knows it better than the honorable gentleman at the head of the Opposition benches. I have no doubt that the owners of property in East Sydney would like to see passed a scheme of taxation differing in many respects from the scheme which has been put forward by the Government. If the letter of Mr. Suttor had been sent to the Speaker before the Treasurer made his financial statement, that letter would have been entitled to a larger measure of respect than it is likely now to receive.

Mr. GARRETT: In what way are the two matters connected?

Mr. SLATTERY: It is very probable that but for the character of the financial statement this resolution would not have been moved. If the letter of Mr. Suttor had been sent in before the financial statement was made, Mr. Reid would, in my judgment, have felt called upon to write a letter in similar terms. Under those circumstances both honorable members would have appealed to the country upon terms of equality. Now they cannot do so.

Sir JOHN ROBERTSON: Why should Mr. Reid be afraid to go before his constituents?

Mr. SLATTERY: I remember particular times at which my honorable friend would not have cared to go before his constituents!

Sir JOHN ROBERTSON: No one can say that I have ever been afraid to appeal to the country!

Mr. SLATTERY: We know, at all events, that Mr. Reid and Mr. Suttor would not appeal to the country upon terms of equality.

Sir JOHN ROBERTSON: Why not?

Mr. SLATTERY: No one knows better than the honorable gentleman that the effect of taxation proposals is invariably to make political enemies. It is probable that if Mr. Reid had gone before the electors of East Sydney before the financial proposals of the Government were made he would have been elected without any opposition; but now the circumstances of the case are changed, and I think we should not be acting fairly towards Mr. Reid if we were to declare vacant the seat of Mr. Suttor. I hear ironical cheers from honorable members opposite. If they can show me that those two gentlemen will go before their respective constituencies upon terms of equality, there might be good grounds for voting for the resolution.

Sir JOHN ROBERTSON: If the honorable member will allow me to make a suggestion, I would suggest that he should add to the resolution the name of Mr. Reid!

Mr. SLATTERY: The honorable member knows, of course, that I dare not take such a liberty. Mr. Reid has not sent to me a letter such as Mr. Suttor sent to the honorable member at the head of the Opposition benches. No one could take the course which the honorable gentleman suggests without interfering with the rights of Mr. Reid.

Mr. COMBES: What rights?

Mr. SLATTERY: Unquestionably Mr. Reid has rights. Whether they are substantial or illusory I do not pretend to say, but he assuredly has some kind of rights. Certain rights have been conferred upon Mr. Reid by the passing of the validating bill by the representative branch of the legislature. The bill was passed by a large majority, and it expresses the will of the House that these

seats should be validated. •In my opinion a gross injustice will be perpetrated if Messrs. Reid and Suttor are sent to their constituents upon unequal terms, and I hope, therefore, that the resolution will be rejected.

Mr. COMBES: I do not think the honorable member for Boorowa can have read the evidence taken by the Committee of Elections and Qualifications. Had he done so he would have seen that the committee did not travel away from the consideration of the question submitted to them, and that with regard to that particular question the evidence was conclusive. Mr. Reid himself admitted that the *Gazette* notice had not been published. The Clerk of the Executive Council and the Principal Under-Secretary both gave evidence to the same effect. The honorable member for Boorowa is not justified in saying that the committee went beyond the question which was referred for their consideration. The committee were unanimous in their decision; they regretted, however, that the point should have been raised, because it seemed to them that there was no *mala fides* on the part of the gentlemen, the validity of whose seats had been questioned. The committee could not help finding the verdict which is contained in their report. If any one was to blame in the matter, the Government themselves were at fault in consenting to refer the question to the Committee of Elections and Qualifications instead of introducing their validating bill. If they wanted to validate the seats of Mr. Reid and of Mr. Suttor, why did they not fight out the question with the House? In my opinion, however, Parliament cannot do an illegal act; and in my humble judgment Parliament certainly will be doing an illegal act if it passes the validating bill which has been introduced by the Government. The honorable member for Boorowa, who wished to inform honorable members how they should argue, has set rather a bad example in offering to risk his seat against mine. That observation struck me as being rather a curious style of argument. In my opinion the Committee of Elections and Qualifications should discharge the functions of a court of equity, and if the committee were called upon to decide mere questions of law I should decline to be a member, because I

[*Mr. Slattery.*

am not sufficiently a lawyer to discharge duties of that description. I feel persuaded that if Mr. Reid and Mr. Suttor had determined at once to seek re-election they would have been returned to the House without any difficulty. If I had a thousand votes in the electorate of East Sydney, I would give them to Mr. Reid, although I am opposed to him in politics. I should be very sorry to see the honorable member excluded from the House, for I consider him a valuable member and a very estimable man. Suppose that it were necessary to send the validating bill to England for her Majesty's assent, on the ground that it is an amendment of the Constitution Act. A delay of some six months would ensue. Is Mr. Suttor to be kept out of the House during the whole of that period, when he has himself expressed a wish that he may be sent before his constituents? Mr. Suttor naturally wishes to face his constituents as soon as possible, in order that the difficulty may be solved. Why should he not be allowed to do so? If Mr. Reid chose to go before his constituents, I can assure honorable members that although I am opposed to the honorable gentleman in politics I would do all that lay in my power to get him elected. It is in no sense the honorable member's fault that this difficulty has arisen. And with the fact staring Mr. Suttor in the face, that he may be debarred from coming into the House for six months—at this particular time too,—I think he is quite justified in asking that his seat should be declared vacant, and the present motion must not by any means be considered as an adroit move on the part of the Opposition. We do not wish to take any unfair advantage. As I have said, I should gladly do all in my power to secure Mr. Reid's re-election, and I believe that honorable gentlemen who sit on this side of the House would do the same. I should have been quite content to leave the matter where it was left by the chairman of the Elections and Qualifications Committee, had it not been for the attack made on the committee by the honorable member for Boorowa, and I wish emphatically to disclaim that the present proceeding, so far as I am aware, is in any way an adroit move on the part of the Opposition to embarrass the Government.

Mr. HEYDON : Any one might have concluded from the speech of the honorable member who has just sat down, if the honorable member himself had not stated it in so many words, that he is a member of the Committee of Elections and Qualifications. He has been actuated by a pardonable desire to magnify the work in which he has had a hand.

Mr. COMBES : Not at all ; we simply did what we thought right !

Mr. HEYDON : It is excusable according to the proverb, "*Qui s'excuse s'accuse*," for a member of the committee to assert that every member of that committee was actuated by a single, pure-minded wish to do what was right. I was also surprised to hear that the whole of the Opposition wish nothing more than that Mr. Reid should be re-elected.

Sir JOHN ROBERTSON : Who said so ?

Mr. HEYDON : The honorable member for East Macquarie said so.

Sir JOHN ROBERTSON : If he did say so, what does it matter ?

Mr. HEYDON : One thing I have taken notice of in the course of the discussion is that, although honorable members on the other side have expressed widely different views, there has been a most delightful unanimity in their conclusions. I grieve to see the spirit which animates the Opposition. When the honorable member for Mudgee (Mr. A. G. Taylor), at an earlier stage of the matter, said that he did not intend to take any action with regard to the seats of any other members but those which have already been adjudicated upon, he took great credit for his generosity, but his conduct reminded me of what I have read in the account of Dr. Livingstone's travels, about the habits of the natives of South Africa, who when they go out to hunt do so in lines in the form of an angle, into which they drive their game, but any powerful and dangerous animals which happen to get in are allowed to escape in order to secure the capture of the rest. We, as a law-making and not a judicial body, ought to consider the matter on broad grounds, and I maintain that the broad equities of the case are as strongly in favour of Messrs. Reid and Suttor as in favour of the honorable member for Mudgee, Sir John Robertson, and the honorable member for Central Cumberland (Mr. Lackey), and other honorable members who are in the

same position, except that one further step has been taken in the case of Messrs. Reid and Suttor by referring it to the Elections and Qualifications Committee. The committee simply found with reference to those gentlemen what is the fact with regard to the whole of them, so that Messrs. Reid and Suttor are no more liable on equitable grounds to have their seats declared vacant than are the others. It is a significant fact that in all these proceedings hitherto we have scarcely heard the name of Mr. Suttor mentioned. It reminds one of Macaulay's lines :

Then fiercer grew the fighting
Around Valerius dead ;
For Titus dragged him by the foot
And Aulus by the head.

But apart from the broad grounds on which I voted for the bill, there is a clear ground on which I intend to give my vote on this occasion. Having voted for the second reading of the bill, and it having been passed by a large majority, I refuse, by a side-wind of this sort, in order to satisfy the high-flown sentimentality of any member, to stultify myself and to make null and void the vote I gave the other day. What, I should like to know, is the object of the Opposition ? Do they think that Mr. Suttor or Mr. Reid will not be re-elected ? If they are so certain to be elected as some honorable members say, why this intense ardour to send them before their constituents ? But there is a broad distinction between the cases of the two gentlemen. Mr. Suttor may be re-elected at once, but Mr. Reid cannot until the validating bill passes because he is the sixth minister.

Mr. LYNE : He can, if he resign his seat as minister !

Mr. HEYDON : Is that what honorable members opposite desire to bring about ? What a farce it would be for Mr. Reid to resign his seat and also his portfolio for a week, and then assume them again when the validating bill had passed ? If Mr. Suttor's seat were the only one in question—if the seat of no other member depended on the issue now before the House,—I am sure we should have had none of this debate. If Mr. Suttor had a fancy to be re-elected every week in order that he might have the constant approval of his constituents, I do not imagine that any one would object, or that we should find

his friends on the other side displaying such eagerness to assist him in carrying out his whim. It does seem to me that an attempt is being made to embarrass the position of Mr. Reid, and it is not a fair attempt, because that gentleman is not in the same position as Mr. Suttor, for the reason I have already stated, namely, that Mr. Reid is the sixth minister. To this point the Committee of Elections and Qualifications seemed to attach great importance. Most of their questions were directed, not with reference to the *Gazette* notice, but with reference to the point whether Mr. Reid was or was not the sixth minister. The presumption is, therefore, that they thought the actual question referred to them, that of the publication or non-publication of the *Gazette* notice, trivial and feeble in comparison with the question as to the sixth minister. Now, according to legal practice, if a certain question is submitted to a tribunal, and that tribunal admits evidence on a totally different matter and returns an open verdict, the whole trial may be set aside. Thus, if upon the trial of a man any inadmissible evidence be admitted, the conviction based upon the evidence is bad, because there is no saying to what extent any particular portion of evidence influenced the decision. The narrow issue submitted to the committee was whether the seats of Messrs. Reid and Suttor were vacant because a certain *Gazette* notice had not been published. The committee, however, did not confine themselves to that point, but took evidence upon a totally distinct issue, namely, as to whether one of the gentlemen was or was not the sixth minister, and they found an open verdict. If it had been a strictly legal trial the decision would have been void, because we do not know to what extent it was based upon the evidence respecting the actual question referred to the committee, and to what extent upon the other point relating to the sixth minister.

Mr. A. G. TAYLOR : He could be elected as solicitor-general and administer the Department of Public Instruction !

Mr. S. SMITH : I am rather surprised at the arguments used by the honorable member. We have nothing to do with the evidence submitted to the Elections and Qualifications Committee. The Speaker has decided that the decision of the com-

[*Mr. Heydon.*

mittee cannot be questioned except by a motion of the House—that those gentlemen are not and never were members of the House. The Opposition have been challenged with a desire to send both these gentlemen to their constituents, and it is said that it is an Opposition move ; but what move can there be ? We only ask that the seat of Mr. Suttor shall be declared vacant. We do not ask that the seat for East Sydney should be declared vacant, but we know that the Government are afraid to face an election for East Sydney. The validating bill was passed very hurriedly through this House, the standing orders being suspended for the purpose, but now that it has gone to the Legislative Council it will not be considered for a week. Does that show any anxiety to get the matter dealt with ?

Mr. STUART : That is not a proper statement to make !

Mr. S. SMITH : I am told that the consideration of that bill has been postponed in consequence of this motion being brought on here.

Mr. STUART : Hear, hear !

Mr. S. SMITH : That bears out my statement exactly.

Mr. STUART : It is exactly the opposite to it !

Mr. S. SMITH : We were in a hurry to pass the bill, yet we now find that the electors of East Sydney and Bathurst are to be kept waiting two months.

Mr. MELVILLE : Why did not Mr. Suttor resign at first ?

Mr. S. SMITH : I happened to be in Bathurst last Saturday, and I think I should say something as to the action of Mr. Suttor there. I spoke to several of his supporters, and they assured me that Mr. Suttor did not intend to take his seat if the validating bill was passed.

Mr. STUART : Why did he not say so here ?

Mr. S. SMITH : He said so as soon as ever the decision of the committee was known.

Mr. STUART : A week after the bill was brought in !

Mr. S. SMITH : It was impossible for him to do anything before Mr. Speaker declared his seat vacant.

Mr. TRICKETT : The report of the committee was brought up on the 16th of January !

Mr. S. SMITH: That report was not adopted. There was no reason to believe that the House would not do what is usually done, and let the electors decide whether Mr. Reid and Mr. Suttor should be returned or not. It has been said that we are anxious to send Mr. Suttor before the electors; but what are the facts? Twelve months ago Mr. Suttor was returned by the electors of Bathurst by a majority of only sixteen votes, while the Minister of Public Instruction was placed at the top of the poll by the electors of East Sydney.

AN HONORABLE MEMBER: He is afraid to go now!

Mr. S. SMITH: It is admitted by the honorable member for Yass Plains that if Mr. Reid did go he would be defeated in consequence of the financial proposals of the Government.

Mr. HEYDON: I said nothing of the kind!

Mr. S. SMITH: Then it was the honorable member for Boorowa.

Mr. SLATTERY: I did not say so. I said he would not go on terms of equality!

Mr. S. SMITH: And why is that? I honestly believe that if the usual course had been followed and the seats had been declared vacant there would have been no opposition.

Mr. MELVILLE: The Opposition have been whipping all over the country and in the lobbies of the House. Mr. John Davies has been whipping-in the House to-night!

Mr. BURNS: We have not a paid whip!

Mr. S. SMITH: The bill to validate the return of Mr. Reid and Mr. Suttor has not yet become law, and Mr. Suttor has declared that he would not accept the seat if it had. If he accepted the seat under such circumstances, he would deserve to be kicked out the next time he became a candidate for the representation of the constituency. Mr. Speaker very properly decided a few nights ago that Mr. Suttor and Mr. Reid were not members of the House.

Mr. SPEAKER: I hope the honorable member will understand that I have given no decision that any honorable gentlemen are not members of the House. I have said this: that a certain finding of the Committee of Elections and Qualifications amounts to a decision to that effect.

Mr. TRICKETT: Where would be the necessity of this motion?

Mr. S. SMITH: The Government are afraid to have the seats declared vacant. The Opposition can gain nothing by Mr. Suttor having declined to take an unconstitutional course. He is determined to go to his constituents, but the Minister of Public Instruction dare not go.

AN HONORABLE MEMBER: He cannot go!

Mr. S. SMITH: He can resign and then get elected. It has been done again and again. Another minister could act for him. The Colonial Secretary has done it.

Mr. STUART: When?

Mr. S. SMITH: Did not the Colonial Secretary act for the honorable member for East Sydney, Mr. Copeland, when he was absent? He could take the office of solicitor-general.

Mr. STUART: This House has resolved that there should be no solicitor-general.

Mr. S. SMITH: That decision can easily be reversed. Mr. Reid could have resigned his office, and before the nomination a bill could have been passed, and in a very short time he could have been returned. I feel sure that this House in its wisdom will carry out the wishes of the honorable member for Bathurst.

Mr. STUART: There is no honorable member for Bathurst!

Mr. S. SMITH: The late honorable member for Bathurst.

Mr. STUART: He never was the member for Bathurst!

Mr. S. SMITH: During the late Parliament he was.

Mr. STUART: No; his election was just as illegal then!

Mr. S. SMITH: He has, at any rate, been the member for Bathurst. It is said that the demand for the seats to be declared vacant comes from the Opposition; but is the honorable member for Canterbury, Mr. Pigott, a member of the Opposition? Are the honorable members for Inverell, Central Cumberland (Mr. McCulloch), and Northumberland (Mr. Tighe), members of the Opposition? Those gentlemen have always given the Government a consistent support, and they only oppose them now because of their unconstitutional proceedings. If the Governor

refuses to assent to the validating bill, and refers it to her Majesty, it will be some months before the electors of Bathurst and East Sydney are represented in Parliament. I hope that honorable members will see it clearly to be their duty to pass the motion.

Mr. YOUNG: It seems to me that these two cases ought not to be mixed up together. The resolution declares the seat for Bathurst vacant, and we have nothing to do with the position of the Minister of Public Instruction. If that gentleman chooses to take advantage of the validating act, let him do so. If he wishes to be the nominee of the House or of the Government, it is not indispensable that Mr. Suttor should be in the same position. That honorable gentleman objects to anything of the kind, and very rightly. He shows that he is not afraid to face his constituents and to let them say whether he is to be their member or not. It has been asked why there is so much ardour on the part of the Opposition. The reason is this: that we are anxious to see the constituencies represented in the House. Those of Bathurst and East Sydney have not been represented for some weeks, and if we are to wait until the validating bill is passed they may remain unrepresented for some months.

Mr. W. R. CAMPBELL: Tenterfield is unrepresented!

Mr. YOUNG: It is owing to the choice of the electors themselves. The honorable member for Tenterfield put the question to them as to whether he should resign or not. Mr. Reid and Mr. Suttor are not and have not been members; therefore, their position is entirely different from that of the honorable member for Tenterfield. I think every honorable member should bear in mind the remarks of the honorable member for Northumberland, Mr. Tighe, that we are called upon to vote either the truth or a falsehood. The seats are either vacant or they are not. The Committee of Elections and Qualifications has decided that they are vacant, and we have no right to reverse that decision.

Mr. McELHONE: It will not be denied that ever since the Government came into power the *Sydney Morning Herald* has given them more than fair play. Any one who has read that paper must have felt that it was almost a partisan of the

[*Mr. S. Smith.*

Government; but what did the *Herald* say in a leading article yesterday? The *Herald* said:

The bill to give seats in the Legislative Assembly to Messrs. Reid and Suttor, and to amend the Constitution, having passed the Assembly is about to be submitted to the Upper House for its concurrence. It will not be surprising if the members of that Chamber should ask, "What have we to do with the disposal of these seats? The amendment of the Constitution is a thing we can understand and consider; but what law has made the Council a hustings or a polling-booth?"

The *Herald* has taken the line of argument which I used the other night. I say that the only authority that could deal with these cases was the Elections and Qualifications Committee. They gave their decision to the effect that Messrs. Reid and Suttor were not members of the House, and the *Herald* points out, as I said the other night, that we are asking the Upper House, which is not an elective body, to do what we have been trying to do here, to assume the power to return those gentlemen to Parliament. If the thing is carried through the present Parliament, the time may not be far distant when we may have in power a government that is utterly corrupt, and supported by a corrupt majority. That Government may be afraid to go before the electors, and we may have them bringing in a bill to validate their position. It may seem that I am imagining an improbable case, but we might have an utterly corrupt and immoral government, supported by a majority completely demoralised and afraid to face the people, and they might pass a bill to give themselves and their supporters seats without going to the country at all. What we are doing now will be a precedent for any corrupt majority to follow in the future. A government may say to their majority, "We will give anything whatever if you will keep us in power; we will trample underfoot the law and the Constitution; we will give you all you want—gaols, lock-ups, and court houses"; and they may issue loan after loan, spend money, keep themselves in power, and set the country at defiance. They may do more; they may enrich themselves at the public expense. All the members of the Elections and Qualifications Committee have been staunch supporters of the Government, and they have never voted against them until this

validation bill was introduced. The committee have done their duty in the only way in which they could do it. What is taking place now shows how one false step leads to another. Having made one false step the Government are in the mire. Why does not the Premier move that the seat of the honorable member for Grenfell be declared vacant? Because he is afraid to do so. He dare not do it, because it would be asked, "Why did he not do the same in the case of Mr. Reid?" The House would see how monstrously unfair such a proceeding would be. That gentleman got in for East Sydney by his clap-trap; on the first occasion he jumped out of the civil service to the head of the poll in East Sydney, and he was at the head of the poll on a second and a third occasion. But now we are in this state of affairs: the Government having brought in a scheme of taxation which stinks in the nostrils of the country, they are afraid to allow their colleague to face the electors. They know that the country from one end to the other is ringing with denunciations of their proposals.

Mr. SPEAKER: I must ask the honorable member not to discuss the proposed scheme of taxation now.

Mr. McELHONE: Mr. Suttor was returned for Bathurst by a majority of sixteen, but he has refused to be a party to the validating bill. He refuses to be brought back here on such terms. That is a manly course to take, but there is nothing manly in the course pursued by the Government. The Government have been asking the House to elect two men who have no right here at all. They are doing a double wrong, because they are taking away from the people of East Sydney the power to chastise the Government in the person of Mr. Reid, as I believe they would do if they had the chance. The *Sydney Morning Herald* has been a stronger supporter of the Government than any member of the House, but when that journal found it necessary to perform a public duty it discharged that duty, and no one will deny that a fairer leading article than that from which I have quoted was ever written. We ought not to be guided by such gentlemen as the honorable member for Yass Plains. I asked him some time ago if his brother-in-law was not going to be appointed police

magistrate at Carcoar, and he replied that he knew nothing about it. The next thing we heard was that that gentleman had been appointed. The Government made a mistake in bringing in a bill to validate the seats of gentlemen who were members of the House, and now they are afraid to do their duty in the case of Mr. Vaughn. I shall vote for the motion, believing that I am doing my duty to the people who sent me here.

Mr. O'CONNOR: I cannot give a silent vote on this question. A good deal of feeling has been introduced into the discussion for which I can see no necessity, for it is a matter which ought properly to be decided on its merits. The honorable member who has just resumed his seat spoke the other night of my want of knowledge; but I can afford to disregard his opinion on that matter. When I gave my vote the other night I was led to my conclusion by the able speech of the honorable and learned member for Morpeth. The question then was the validation of the seats of two gentlemen who, in my humble estimation, lost them through no fault of their own but from a bungle by Parliament.

HONORABLE MEMBERS: No; by the Executive!

Mr. STUART: Partly by Parliament!

Mr. O'CONNOR: Be that as it may, they lost their seats through a technicality, and it was because I believe in the supreme power of Parliament, and an error having been committed, that I believed Parliament ought to rectify it; and I was considerably surprised at the reasoning of some gentlemen, who very often spoke of the dignity and the power of Parliament yet in the very same breath threatened to reduce its power below that of a suburban municipality. If we have any power, it is to enable us in deciding on the duties which the exigencies of public life demand to override even the judicial action of the Elections and Qualifications Committee. The House knows that the Parliament of England could set aside Queen Victoria, the succession to the throne, or the established religion; yet some gentlemen say that the Parliament of New South Wales has not the right to rectify a technicality.

Mr. McELHONE: We cannot make a law without the Queen's assent!

Mr. O'CONNOR: I do not say anything about that, but I may state reasons for my vote. I gave it the other night on the distinct understanding of the supreme and sovereign power of Parliament; but to-night I give my vote for the resolution of the honorable member for Mudgee. I regret much that under existing circumstances I am called on to do so, and I say that whatever may be the fate of Mr. Reid or of Mr. Suttor we have no more to do with it than we have to do with the internal government of France. That is not the question. My intention is to give the power to the people of Bathurst of sending a representative to Parliament, and this Parliament has no right to deprive them of the privilege they are entitled to under our Constitution of having a representative here. No other alternative is offered to me than to vote that they ought to be represented in this Chamber. No one can accuse me of great hostility to the Government or of very warm attachment to the Opposition; I keep my seat as an independent member, and give my vote without fear or favour; and on that footing I have come to the conclusion that we have no right to look on side issues raised as to the position of the Government in introducing a fiscal policy which may affect any election, or as to whether the conduct of Mr. Suttor is consistent with the good taste and dignity which ought to be manifested by an honorable member of this House. We have a high duty to perform, and we have to decide whether the people of the electorate of Bathurst have a right to be represented in the Parliament of New South Wales, those people having done nothing to forfeit that right.

Mr. A. G. TAYLOR: The debate having been so protracted, I desire to say only a few words. The general tendency of the speeches of honorable members seems to depart from the real issue, and to draw a herring across the track. What we have to decide is whether Mr. Suttor shall or shall not have his seat declared vacant. This is a pure formality, incidental to the finding of the Committee of Elections and Qualifications. The House have nothing to do with the fate of Mr. Suttor or Mr. Reid, nothing to do with the chivalry or adroitness of the mover of the resolution. It is scarcely possible that any

[*Mr. O'Connor.*

honorable member who wishes to follow the strict letter of the law can give a vote excepted in the affirmative. It will be remembered that when a case of this kind arose on a former occasion, and when it was feared that a party vote might negative the motion, Mr. Garrett asked Mr. Speaker Arnold what would be the result if the House negatived the vote, and the Speaker's decision was that the House could not do it without contravening the law. Before sitting down I should like to ask you, Mr. Speaker, to imitate the example of your predecessor, and state what would be the effect if the resolution were negatived.

Mr. SPEAKER: In the present state of circumstances that is scarcely a point for me to decide. It was certainly stated in the case of Mr. Baker, I think, on the 5th June, 1870, by Mr. Speaker Arnold, in reply to a question, that if the House negatived such a resolution it would contravene the law, and I would rather not go beyond that statement. But in the present case, since the possibility of such a resolution has arisen, a bill has been passed by this House and submitted to the other; and while something which if carried will operate as a repeal of the law which would otherwise be contravened is before the other Chamber, it is not for me to decide what the effect of negativing or affirming the resolution would be.

Sir JOHN ROBERTSON, in reply: It appears to me that honorable members on the other side of the table have given Mr. Suttor but scant justice in this House. They do not give him credit for the noble stand he has made in defence of the Constitution; instead of that they put forward all manner of insinuations abusing him as well as the Opposition. I am as intimate with Mr. Suttor as is any man in the country, and especially so with regard to his public life, and I can say that I never knew what he was going to do except a few minutes before I entered the House yesterday. So far from there being a deep design, as has been insinuated, we on this side knew nothing of the intention of Mr. Suttor. It is hinted that Mr. Suttor might have determined his course at an earlier period; but surely the honorable member was entitled to consider what course he should take, and to make his decision even at the last

moment. But the fact is that the moment when he heard of the difficulty arising he wrote to one of his constituents and intimated that probably the Government would propose to validate the elections, but that he regarded it as unconstitutional to hold his seat on those conditions; and not only that, he communicated at once with others of his constituents, eminently with the gentleman who proposed him, Mr. Macintosh. Then the House and the country has been told that the present motion is a dodge. Those who put forward a statement of that kind ought to be ashamed of themselves. When Mr. Suttor was last elected it was by a majority of seventeen, and the other gentleman, Mr. Reid, was elected by a majority of something like 1,700. The honorable member for Boorowa suggested that the Minister for Public Instruction was afraid to go before his constituents because of some tariff business of the Government. And has it come to this: that by the maladministration of the Government a majority of 1,700 has dwindled down to an alarm at going before the electors at all? I do not believe anything of the kind. The Ministry have mismanaged public affairs, certainly, but they have not done so much damage that its effect on the electors is to be feared. I have made no inquiries about the state of things as they are regarded in the opinions of the electors. It seems to be that the whole of the charges made against honorable members on this side are utterly indefensible. And what is the proposal now made? I have not moved anything about Mr. Reid, and I have no desire to interfere with him. I yesterday mentioned to the head of the Government, publicly, that it seemed to me that he ought to take some definite course in the matter, and that if he did not do so I would. That was fair enough and not behind the back of any one. Since I have been taunted about my action, I may ask why is the honorable member for Boorowa so particularly anxious that Mr. Suttor should continue to have a seat in Parliament if there is no dirty dodge in his action? Why, throughout the whole of Mr. Suttor's career in office as Minister of Public Instruction the honorable member opposed Mr. Suttor, and now these people send round messengers to induce honorable members who were going away to remain and vote against

the resolution. What is all this for? What do they want with Mr. Suttor's presence here, I should like to know? It is a dodge to shield another man. I have said nothing against Mr. Reid, and I desire not to do so; and I certainly never say anything against a man behind his back. I am sure that he could get a seat; if he does not in one place, he can in another. But what have we to do with him now? His name is not in the motion. We simply ask that Mr. Suttor, who feels aggrieved at the position in which he has been placed, shall be allowed to go to his constituents in order that he may be relieved, and he has asked me to move this resolution, and those who are his bitterest enemies and would do their worst to keep him out of Parliament yet now would do their best to validate his election. Is the House and the country to have dust thrown in their eyes in this way? I believe the other Chamber has declined to go on with the validating bill, having postponed the second reading, and therefore there can be nothing in this motion wrong or improper. The Council has postponed the second reading for a week, and why may they not postpone it for three months? Why should not that House indorse the right of this Chamber to have its full body of representatives? Suppose the other Chamber passes the bill, Mr. Suttor is to be then a nominee of the Governor; and what man would take his seat on that footing? Presently it will be in the hands of one man to say whether an elected person shall or shall not have a seat in this Chamber. The whole thing is wrong, and I am surprised that any one should for a moment attempt to justify it. Those who vote against Mr. Suttor's right to be relieved of his seat, knowing as they must that he is entitled to that relief, can adopt that course only for party purposes. The question, however, ought not to be considered as one of party interest. Honorable members on this side have been taunted with making it a party matter. Why, the honorable members for Boorowa and Yass Plains talked by the hour to enable the whipper-in of the Government to whip up all and sundry members from every part of the city and out of the city.

MR. SLATTERY: I did not speak for such a purpose!

Sir JOHN ROBERTSON : My honorable friend is a very able debater, and was never guilty of so much repetition before. He repeated himself over and over again, until when he found himself exhausted, his partner rose and gave us a dose before tea and another after tea to spin out the time ; and so much was said about this being made a party matter by those who were really making it so that I was reminded of the dodge of a London pick-pocket who, to escape detection, ran and shouted "stop thief!" We make no party matter of it ; we took the view that the bill ought not to pass, but it was not made a party matter ; the objections raised to it were not of that character. I declined to vote on it because I was unwilling to do what might appear to be an unkind thing to these gentlemen. I am doing nothing now against Mr. Reid ; but Mr. Suttor has asked me to take such steps by motion as will clear him of his present position, which he feels presses hard upon him. He is a young man with the prospect of a long career before him, and he thinks that prospect ought not to be blasted by his taking his seat in this Chamber by what is virtually the nomination of the Governor, as the act of Parliament can be made law only by the Governor assenting to it. The Governor may put Mr. Suttor in or out just as he pleases. I have said nothing against Mr. Reid ; but I think the way in which Mr. Suttor has been treated by honorable members on the other side is perfectly scandalous.

Question put, whereupon the House divided with the following result :—

Ayes	33	} Majority, 4.
Noes	29	

AYES.

Abigail, F.	Pigott, W. H.
Burns, J. F.	Proctor, W. C.
Cameron, A.	Roberts, C. J.
Clarke, H.	Robertson, Sir John
Combes, E.	Ross, Dr. A.
Dalton, T.	Sutherland, J.
De Salis, G. F.	Taylor, A. G.
Fletcher, J.	Taylor, H.
Garrard, J.	Teece, W.
Garrett, T.	Tighe, A. A. P.
Gould, A. J.	White, R. H. D.
Griffiths, G. N.	Wilson, A.
McCulloch, A. H.	Wisdom, R.
McElhone, J.	Young, J. H.
Moses, H.	<i>Tellers,</i>
Murray, R. L.	Smith, S.
O'Connor, D.	Spring, G.

[*Sir John Robertson.*]

NOES.

Abbott, J. P.	Holtermann, B. O.
Barbour, R.	Humphery, F. T.
Buchanan, D.	Levin, L.
Campbell, W. R.	Lynch, A.
Cass, G. E.	McCourt, W.
Clarke, W.	Melville, N.
Chapman, M.	Olliffe, J. B.
Day, G.	Purves, J. M.
Ellis, J. C.	Stuart, A.
Farnell, J. S.	Tarrant, H. J.
Fergusson, W. J.	Trickett, W. J.
Garvan, J. P.	Wright, F. A.
Gibbes, F. J.	<i>Tellers,</i>
Gill, J.	See, J.
Heydon, L. F.	Slattery, T. M.

Question so resolved in the affirmative.

COMMITTEE OF ELECTIONS AND QUALIFICATIONS.

SEAT OF MR. COHEN.

Mr. A. G. TAYLOR asked the Colonial Secretary whether the Committee of Elections and Qualifications had yet held a meeting to consider the question raised in connection with the seat of the Minister of Justice ?

Mr. STUART : I know nothing whatever about the matter.

Mr. A. G. TAYLOR : If it is in order to do so, I wish to put the question to the chairman of the committee.

Mr. SPEAKER : I think that a question may with propriety be put to the chairman of the committee as to whether a meeting has been held, but nothing further.

Mr. PIGOTT : The committee intend to deal with the case on Tuesday next. The committee were engaged two or three days last week considering the case of Mr. Vaughn ; but this week, owing to members of the committee having to attend board meetings and for other reasons, we have not been able to deal with the case of the Minister of Justice.

Mr. MURRAY : I wish to ask the Speaker whether there is anything unusual or improper in members of the Committee of Elections and Qualifications voting on a motion such as that which was dealt with just now ? It has been stated freely in the House that it is improper. If I had thought that it was improper to vote, I should not have voted on the question. When the motion to refer the case to the committee was under consideration I went outside the bar of the House and refrained from voting. I take it that the motion which we have just dealt with is on a different footing.

Mr. SPEAKER: Certainly I am not aware of any rule or practice of the House which deprives an honorable member, by reason of his having acted as member of the committee, of his power to exercise his vote in the House, which he is bound to do to the best of his ability on all questions.

MOTION FOR RETURNS ALREADY
ORDERED AND PRINTED.

Mr. STUART: I wish to direct the attention of the Speaker and the House to a notice of motion which I see on the business-paper for the 26th February in the name of the honorable member for The Upper Hunter (Mr. McElhone) for the production of papers which are already in the possession of the House. It appears to me to be unseemly that the House should have its business-paper encumbered with notices of motion for the production of papers which are already in the possession of the House. The motion to which I refer is for the production of papers having reference to a conditional purchase made by Mr. Charles Goodchap, at Penrith. I find that precisely the same motion was moved by the same honorable member on the 17th of June, 1879, and the papers are now in possession of the House. It seems to me that when an honorable member—more especially an honorable member who moved for the papers in the first instance—moves again and again for papers which are in the possession of the House he is only trifling with the House—that his action is derogatory to its dignity, and imposes on the Government a task which is not at all necessary. I wish to ask the Speaker's ruling as to whether the motion ought not to be struck off the notice-paper.

Mr. MCELHONE wished to know whether the Colonial Secretary was in order in saying that his conduct was unseemly. He could assure the House that when he gave notice of the motion he had not the least recollection that he had moved for the papers previously. The second clerk-assistant told him when he handed in the notice that he thought that a similar return had been produced some years ago; but as the clerk did not mention the subject again he assumed that the papers had not been moved for.

Mr. SPEAKER: I understood the honorable member to rise to a point of order.

Mr. MCELHONE: I intend to move the adjournment of the House!

Mr. SPEAKER: The honorable member will not be in order in doing so, seeing that the Colonial Secretary is really in possession of the Chair.

Mr. MCELHONE: Had the honorable member any right to say that my conduct was unseemly?

Mr. SPEAKER: It seems to me that under the circumstances the honorable member was perfectly in order. It is alleged that some time ago papers identical with those which are referred to in the notice of motion were moved for and laid on the table of the House.

Mr. MCELHONE: They are not identical?

Mr. SPEAKER: The Colonial Secretary alleges that they are, and on that ground he drew the attention of the House to the matter, with a view, I suppose, to conclude with a motion to the effect that the notice of motion be removed from the paper. Under these circumstances I cannot see that it is out of order to allege as a ground for dealing with the notice of motion that the honorable member's conduct is unseemly, because, perhaps, that would be the only ground on which the notice would be expunged.

Mr. MCELHONE said that if the papers were already in possession of the House it was not necessary to make a motion to expunge the notice from the business-paper. It was the practice not to print papers which were already printed.

Mr. SPEAKER: I may say that a short time ago the honorable member gave notice of motion for the production of papers having reference to the Treasurer, and making certain charges against him. I found that at the instance of the same honorable member the papers were produced several years ago, and were made a record of the House. I, presuming that the House would not tolerate the moving again and again for papers already on the records, took upon myself, assuming that I should have the sanction of the House for pursuing such a course, to say that the notice should not appear on the business-paper unless my attention was called to it, and the honorable member requested that it should appear on the paper. I cannot rule that it is out of order to move that the motion to which reference is made

be expunged from the paper. Had my attention been called to the notice before it appeared on the paper I should not, following the course which I adopted in the other case, have allowed it to appear on the paper. If I had done that, and the honorable member had called my conduct into question, I should have yielded to necessity, and have allowed the House to deal with the motion. That is the only course which I could adopt out of respect to the House. As the motion now appears on the paper I cannot take out of the hands of the House the power to deal with it.

MR. STUART: In drawing attention to the matter I had no wish to prejudge the case or to interfere in any way with the honorable member. I said that it was an inconvenient practice to move for papers which are already in possession of the House. The only difference between the motion proposed by the honorable member in 1879 and that which he has given notice of, is that the former simply asked for the production of the papers, while the latter asks for the papers and also animadverts on the conduct of the parties mentioned. I think that I have simply discharged my duty to the House in drawing attention to the matter.

MR. SPEAKER: As the notice appears on the paper it will be in order for the honorable member to move that it be expunged.

MR. McELHONE: But he must give notice!

MR. SPEAKER: No; it could be dealt with as a matter of privilege. Perhaps the honorable member will consent to the withdrawal of the motion?

MR. McELHONE said that he was quite willing to consent to the withdrawal of the motion. With regard to a remark made by the Speaker he was not aware that any notice of motion for the production of papers relating to the Treasurer had been struck out of the business-paper.

MR. SPEAKER: I did not say that it was struck out of the business-paper; I said that I did not allow it to appear on the business-paper.

PRIVILEGE.

SEAT OF MR. VAUGHN.

MR. McCULLOCH rose to move:

That the Elections and Qualifications Committee having reported that Robert Matteson Vaughn, Esq., the honorable member for Gren-

[*Mr. Speaker.*

fell, since the date of his election, in conjunction with another person, entered into an agreement with the Government on account of the public service, whereby the seat of the said Robert Matteson Vaughn, Esq., has become liable to be declared by the Legislative Assembly to be void, and having further reported:

That the evidence taken before the Committee of Elections and Qualifications proves that the said Robert Matteson Vaughn, Esq., since the date of his election, in conjunction with another person, tendered to the Government to construct, completely finish, and maintain the various works for contract No. 7, Sydney sewerage, in accordance with the conditions of contract prepared for that purpose, and inclosed a Treasury deposit for £600 sterling, as required by the conditions, and undertook to lodge with the Colonial Treasurer, within seven days from the date of notification of acceptance of the tender, the further sum of £6,000 as security for the due performance of the contract; and agreed to forfeit to the Queen the sum deposited with the tender if the said deposit of £6,000 should not be made or the contract signed as therein mentioned. That the tender was accepted by the Government. That the said Robert Matteson Vaughn, Esq., in conjunction with another person, then discovered that the tender was for too low a sum, and did not lodge with the Colonial Treasurer within seven days from the date of notification of acceptance of the tender the further sum of £6,000 as security for the due performance of the contract, and the Government notified to the said Robert Matteson Vaughn, Esq., and such other person, that the contract entered into by them had been cancelled, and the deposit money of £600 forfeited. That, after a lengthy correspondence, the deposit of £600 was returned to the said Robert Matteson Vaughn, Esq., and such other person; and that the contract or bond referred to in the said conditions (and which was to be prepared by the Crown Solicitor) for the performance of the said works, was not signed by the said Robert Matteson Vaughn, Esq., and such other person,

for the causes shown in the said report this House declares the seat of the said Robert Matteson Vaughn to be void.

He said: I thought that the duty of moving this motion would have been undertaken by the Government; but as I understand that the Premier has made up his mind not to take any action in the matter, and as I think it is unfair to the constituency of Grenfell, and to Mr. Vaughn, that the question should remain in abeyance, I have determined to take upon myself the duty, so that the House may determine what ought to be done. The grounds upon which the seat is liable to be declared vacant are so fully set forth in the report of the committee that I do not think that it is necessary for me to refer to them. I disclaim having any personal feeling in the matter. I may say that I have spoken to Mr. Vaughn, and he has informed me that he is quite content to leave the matter in the hands of the House.

Question proposed.

MR. McELHONE: I shall, as I have always done, do that which I think to be right; that is, support the adoption of the report of the committee. I rise to suggest that the debate be adjourned until Tuesday next, so that honorable members

may have an opportunity to read the evidence which has not yet been circulated. I have no knowledge of the facts of the case beyond the imperfect idea which I could form from hearing the report of the committee read. I think that it will be admitted that it will be utterly impossible for honorable members to arrive at a fair conclusion before they have read the evidence. We have no right to condemn Mr. Vaughn before we are in a position to judge the case on its merits. From what I have heard I believe that the report of the committee is fair. My principal object in rising was to point out that the Premier is the proper person to move the motion. The conduct of the Premier is most extraordinary and unjustifiable. I defy him to point to a case where a private member has been compelled to move that the seat of an honorable member be declared vacant. The only case which I know of where this was done was when Mr. Baker's seat was in question, and the honorable and learned member for Mudgee had to move that the seat be declared vacant, as for party reasons the Government did not find it convenient to do so. The conduct of the Colonial Secretary with regard to this case is on a par with his weak, vacillating conduct in other cases. He has been afraid to do his duty as leader of the House; but he has had a strong and a paramount reason for not doing his duty. He knew that if he moved that the seat of Mr. Vaughn be declared vacant he would at once be charged with inconsistency, because he had not moved a similar motion with respect to the seat of Minister of Public Instruction.

Mr. McLAUGHLIN: Move an amendment to add Mr. Reid's name to the motion!

Mr. McELHONE: If the Government do not do their duty in Mr. Reid's case by moving that the seat be declared vacant, I hope that some member of the House will adopt that course. I trust that there are honorable members sitting on the Government benches with sufficient independence, manliness, and feeling of honor to impel them to move that Mr. Reid's seat be declared vacant. I want to see him go before the electors of East Sydney and justify the measures which the Government have brought forward,

and find out whether the people have the same confidence in the Government as they had twelve months ago. I venture to say that they have not. If no member on the other side of the House will do so, it will be the duty of some honorable member on this side to move that Mr. Reid's seat be declared vacant, and then we shall see what the Government will do. We shall see whether the Government will still continue in their endeavours to save their colleague from political extinction. I shall not now debate the matter further. I hope that the question will not be finally disposed of until honorable members have had an opportunity to read the evidence upon which they are expected to give their verdict.

Mr. J. P. ABBOTT: The honorable member will see on reflection that the practice which he has laid down is not borne out by facts. He has asserted that in these cases it is the duty of the head of the Government to move a resolution which will have the effect of declaring the seat vacant. If the honorable member had taken the trouble to search the records of the House, he would find that the Government have in very few instances assumed that position. On the contrary, the head of the strongest government which we have ever had has refused to pursue the course which the honorable member has indicated. When the honorable member says that it is the duty of the Government to assume the position of asking the House to deal with these reports from the Committee of Elections and Qualifications, I would ask him to name one case in which the Government have done so. If he looks at the records of the cases of Love and Forster which have been so frequently mentioned, he will find that in both those cases the resolution dealing with the report of the committee was moved by a private member. If these cases had not been so frequently brought under our notice of late, there would be some excuse for the statement which the honorable member has made. But let us turn to a more recent case. In 1882 a question affecting the seat of Mr. Purves, the honorable member for The Clarence, was referred to the Committee of Elections and Qualifications.

Mr. McLAUGHLIN: You ought to have followed up the report of the committee!

First night.

Mr. J. P. ABBOTT: That is not the question we have now to decide. If the assertions of the honorable member's colleague be correct, I ought not to have followed up the report. The committee brought up a report very similar to that which they have presented in the case of Mr. Vaughn. They found that Mr. Purves had entered into an agreement with the Government, and that, virtually, his seat was liable to be declared vacant by reason of that agreement. My intention now, however, is to show that the statement of the honorable member that it is the duty of the Government to move in these matters is not borne out by the facts which appear upon our records. The Government certainly did not interfere in the cases of Mr. Love and Mr. Forster.

Mr. A. G. TAYLOR: Because they were favourably disposed to the gentlemen whose seats were affected!

Mr. J. P. ABBOTT: I find from *Hansard* that in the case of Mr. Purves I asked the Colonial Secretary—when the committee had presented their report—what the Government intended to do in the matter. Sir Henry Parkes replied:

Generally it is a matter for Parliament itself to decide. As far as the Government are concerned I may state that we do not intend to take any step whatever.

And there the matter was allowed to rest.

Mr. McELHONE: Did not the head of the Government move that Mr. Combes's seat be declared vacant?

Mr. J. P. ABBOTT: I have cited three cases in which the Government did not interfere. If the Government stepped out of their way to move that the seat of Mr. Vaughn be declared vacant, it would be at once said, and forcibly said, that they were taking this step because Mr. Vaughn sits upon the Opposition benches. So far as I am concerned I shall vote against the resolution to declare the seat vacant. Honorable members may jeer as much as they like. I think I am as capable as any one here of forming an opinion as to what constitutes an agreement, and, with due respect to the Committee of Elections and Qualifications, I say that there was no agreement between Mr. Vaughn and the Government. An agreement must be a contract which can be enforced. There cannot be a one-sided agreement. The agreement must be one which can be en-

[Mr. J. P. Abbott.]

forced, or in law it is not an agreement. It does not require a lawyer to state so well recognised a principle as that an agreement to be valid must be binding on both parties. Could the Government in this particular case have filed a bill to compel Mr. Vaughn to go on with the work—to find the necessary sureties. Until the Government are in that position, where is the contract? I have great respect for the chairman of the Committee of Elections and Qualifications, and it would appear that the question was one of such great delicacy that the honorable gentleman was puzzled to decide whether there was or was not an agreement. I do not say that the committee have decided wrongly; that is a matter of opinion. In my judgment the honorable member for Grenfell entered into no agreement with the Government. I shall therefore vote against the resolution declaring the seat vacant.

Mr. A. G. TAYLOR: The course which the honorable gentleman intends to take appears to me to be a very proper one; but since the honorable gentleman has mentioned the cases of Mr. Love and Mr. Forster I would remind him that those were cases in which the Government conceived the equities to be with the honorable members whose seats were affected, and had determined to vote in their favour. Naturally, therefore, they would not move resolutions declaring the seats vacant. Judging from the observations of the Minister for Mines, the Government are of opinion that in this case the equities are with Mr. Vaughn. They pursue a perfectly consistent course, therefore, when they refuse to move a resolution declaring the seat vacant; and they are to be commended for their consistency—in this matter, at all events. Whether they would look at the matter in the same favourable light but for recent events is quite another question. I intend to vote against the resolution, and I do so on the ground which I argued before—that there is no mutuality as regards the agreement, that Mr. Vaughn was a successful tenderer only; that he was not, in law, a contractor. I believe that eminent counsel have given an opinion to that effect, and that it has been determined that the Crown cannot proceed against a successful tenderer.

Mr. McELHONE: Honorable members have no evidence in the matter!

Mr. A. G. TAYLOR: I am stating a dry point of law. I am not discussing the evidence. The Committee of Elections and Qualifications have probably given an open verdict because of the great difficulty in arriving at a decision. On these grounds I feel inclined to vote for Mr. Vaughn retaining his seat. No harm can be done by the House so deciding. The deposit appears to have been returned to him. It is a matter, however, for the House to decide after perusing the evidence. The suggestion that the debate should be adjourned until Tuesday is a very sensible one. It is a matter in which honorable members would act unwisely if they voted hastily. Let honorable members look into the matter and see what are the equities and law of the case. I move:

That the debate be now adjourned, and that the resumption of the debate stand an order of the day for Tuesday next.

Mr. McELHONE: I should like to know whether the question can then be considered as a matter of privilege, and whether, therefore, it will take precedence of other business? If precedence is not given to it, we probably shall not reach it on Tuesday.

Mr. SPEAKER: An adjourned matter of privilege will, of course, remain a matter of privilege, and may be dealt with accordingly.

Mr. A. G. TAYLOR: Honorable members may say that there is no reason why the case should not be decided at once, and that some honorable members were in a great hurry to have the case of Mr. Suttor decided. In Mr. Suttor's case, however, the law and facts were already known; there had been a huge delay in dealing with the question. In this case honorable members know neither the law nor the facts, and ought not to be called upon to arrive at a decision without seeing the evidence.

Mr. VAUGHN: I hope that honorable members will not consent to the adjournment of the debate. Honorable members have before them the report of the committee, which contains all the information which could be obtained from any papers which may be produced hereafter. I hope honorable members will consider the position in which I am placed

in regard to my constituents. It appears to me that I am placed in a very invidious position, and I shall be glad to have the matter decided at once. It must be remembered that the question at issue in my case is twelve months old; it is not a question which arose yesterday. Honorable members have been acquainted with the facts for the past twelve months. I have sat side by side and voted with honorable members during the whole of that time, and no objection has been taken to my so doing. I hope, therefore, that the debate will not be adjourned. Honorable members are as well able to decide this question to-night as they will be in a week or month's time.

Mr. GARRARD: I hope that the debate will be adjourned. If I were to record my vote at the present moment, it would be in opposition to the honorable member.

Mr. VAUGHN: Why not give it, then?

Mr. GARRARD: I do not wish to do so until I have had an opportunity to look at the evidence. The decision which we shall have to give in this particular case will be one of some importance. Practically the question has not been under the notice of honorable members for more than a few weeks. In the interests of the honorable member himself, as well as of the House whose reputation is concerned in the just settlement of the matter, I think the debate should be adjourned.

Mr. YOUNG: I have no hesitation as to the course which I shall pursue in reference to the motion for the adjournment of the debate. I feel that I am at present incapable of forming an opinion as to the merits of the case. We have the finding of the Committee of Elections and Qualifications; but that is nothing more than a statement that the honorable member's seat is liable to be declared vacant. In the case of Mr. Suttor we were dealing with a final decision on the part of the committee, and I am glad that the House has treated it as such. But in this case how can honorable members decide without seeing the evidence that the seat should be declared vacant? The adjournment of the debate will injure neither the honorable member for Grenfell nor his constituents. In the interests of fair play I think that honorable members should abstain from making up their minds upon the question until they have seen the evidence.

Mr. LYNE: I take it that the person chiefly interested is the honorable member for Grenfell, who seems anxious that we should go to a vote to-night. I do not understand upon what grounds it is proposed to adjourn this debate. The question has been discussed among honorable members on both sides of the House for a long time past. The point to be decided is whether a tender amounts to a contract. It is clear to my mind that if the law does not bind the honorable member to carry out that which he tendered to do there is no contract. Although I believe that the Committee of Elections and Qualifications have honestly and fairly considered the question, I am obliged to dissent from their finding. My vote, therefore, will be given against the resolution declaring the seat vacant. One reason why the debate should not be adjourned is that we have now a very full house, whereas on Tuesday nights there is generally a very poor attendance. It would be more satisfactory to the honorable member for Grenfell and to the country to have the question decided in a full house rather than in a house of twenty-five or thirty members. I think it would be cruel and unjust to the honorable member to keep him in unnecessary suspense.

Mr. BURNS: With all deference to those honorable members who have not read the evidence, I think they cannot know the facts of the case. All that they have before them is the report of the Committee of Elections and Qualifications containing a kind of open verdict, stating that in their opinion the seat is liable to be declared vacant. When the case was previously before us I expressed the opinion that the honorable member never was a contractor in the ordinary sense of the term, but I should not like to vote without reading the evidence upon which the Committee arrived at their decision. If the motion goes to a division, I shall be constrained to vote for the adjournment of the debate.

Mr. McLAUGHLIN: Unless the debate is adjourned I shall feel it my duty, and I hope a majority of the House will also feel it their duty, to vote against the resolution, and for this reason: that I think the House should not be asked to regard the Committee of Elections and Qualifications as being perfectly infallible

in this matter. I think the committee have shirked their duty. Their report is in no way an answer to the question which was referred to them. They have taken evidence and have had before them papers which should have enabled them to say whether there was or was not a contract, and they have shirked the question. We have before us no evidence upon which we can fairly decide the matter, and surely the House will not set before the country the bad example of determining so important a question upon mere hearsay evidence. It was the duty of the honorable member who followed up the report of the committee to place before us the evidence which guided the committee to their decision, but he did not do so. We are asked to try the honorable member for Grenfell upon the mere statement of the Committee of Elections and Qualifications, that in their opinion his seat is liable to be declared vacant. We are in the position of a judicial tribunal who are called upon to decide whether we will or will not temporarily disfranchise a constituency—for that is what the question amounts to, and before we decide so serious a question in the affirmative we ought to examine carefully the evidence upon which the Committee of Elections and Qualifications have presented to us their report. It will be remembered that when this question first came before us I was of opinion that the tender and its acceptance would prove a complete contract. That is a question which the committee have not decided, and we are asked to decide it without a scrap of evidence on either side. If there is evidence to show the existence of a contract, I shall be the last person to support the honorable member for Grenfell in retaining his seat. I do not agree with what the Minister for Mines has said about precedent, and as to whose duty it is to move in matters of this kind. The question is before the House now to decide whether there was or was not a contract, and I fail to see anything in the report upon which I can say that there has been a contract. The allusion to the case of the honorable member for The Clarence was a most unfortunate one for the Minister for Mines, because although it was on the honorable member's motion that the case was referred to the Committee of Elections and Qualifications, he had not the courage to take action upon

the report of the committee, notwithstanding that it was clearly proved that a contract was entered into; and thus a gross breach of the Constitution Act was committed. If a division should be called for upon the motion itself, I shall certainly vote against it, because there is no evidence in the possession of honorable members to show that the honorable member for Grenfell entered into a contract.

Mr. LEVIEN: It is my intention to vote against the motion to declare the seat of the honorable member for Grenfell vacant, and I base my reasons for that conclusion upon the last portion of the committee's report, which says:

That after a lengthy correspondence the deposit of £600 was returned to the said Robert Matteson Vaughn, Esq., and such other person, and that the contract or bond referred to in the said conditions (and which was to be prepared by the Crown Solicitor) for the performance of the said works was not signed by the said Robert Matteson Vaughn, Esq., and such other person.

There seems to be no doubt from this that the committee were of opinion that the bond not having been signed Mr. Vaughn was not a contractor in the true sense of the term. So far from blaming the committee in any way for their report, I think they acted conscientiously and fairly in dealing with the question submitted to them. A few days ago I was concerned in a matter on all-fours with that now before the House, and the result of which will guide me considerably in the vote I intend to give to-night. It appears that the Minister of Public Instruction advertised for tenders for the erection of a public school and teacher's residence. The tender of one person was accepted by a formal letter, and notice of the acceptance was published in the *Gazette*. The Minister, however, finding that there was a difficulty in obtaining possession of the land, said that he was unable to go on with the work, and as the bond had not been signed he considered that no contract had been entered into. The matter was referred to counsel, who advised that as the bond had not been signed there was no contract binding upon the Government, who were consequently free from any liability. The case of Mr. Vaughn is precisely analogous to that case, and I trust that the Government, having themselves taken advantage of the point, that there was no contract

because no bond had been signed, will admit the same point in the case of Mr. Vaughn, who could not have been a contractor in the proper sense of the term. It is my intention to vote against the motion because I think it would be unjust to the honorable member for Grenfell, and I hope the House will come to a division to-night. The point is a very simple one, namely, whether Mr. Vaughn did or did not accept the contract, and the committee themselves acknowledge that no contract was signed by him.

Mr. PIGOTT: Some remarks made by the honorable member for The Upper Hunter (Mr. McLaughlin) render it perhaps advisable that I should say a few words. I do not intend to refer to the merits of the case at all, because the Elections and Qualifications Committee, of which I am a member, having presented their report, with the evidence on which it is based, for the determination of the House, we have no reason to complain, no matter at what conclusion the House may arrive. And as we sat as a commission of inquiry to ascertain facts, I think it fairer to the honorable member for Grenfell that I should say nothing as to the facts of the case, but I wish to point out an error into which the honorable member for The Upper Hunter has fallen. I have already pointed out to the committee in another matter, and I should like to point out now, the distinction there is between the different cases submitted to the Committee of Elections and Qualifications. Under a certain section of the Constitution Act, when a seat is challenged because the member has accepted an office of profit under the Crown the decision of the committee is final. But under section 28 of the Constitution Act the decision of the committee is not final. The committee have a certain thing to do, and I will state shortly what it is. The first portion of the section provides that

any person who shall directly or indirectly himself or by any person whatsoever in trust for him or for his use or benefit or on his account undertake execute hold or enjoy in the whole or in part any contract or agreement for or on account of the public service shall be incapable of being summoned or elected or of sitting or voting as a member of the Legislative Council or Legislative Assembly during the time he shall execute hold or enjoy any such contract or any part or share thereof or any benefit or emolument arising from the same.

First night.

That portion of the section provides for the case of a person who before his election has entered into a contract with the Government, and at the time of election still holds the contract. The section then goes on to deal with the case of persons who have entered into a contract after becoming members of Parliament. Thus :

If any person being a member of such Council or Assembly shall enter into any such contract or agreement or having entered into it shall continue to hold it his seat shall he declared by the said Legislative Council or Legislative Assembly as the case may require to be void and thereupon the same shall become and be void accordingly.

Now, the honorable member for The Upper Hunter, I think without thought, said the committee shirked their duty and did nothing. The committee is composed of men who care not the value of two straws for the opinion of any man, who will do their duty irrespective of what may be said of them by the press or anybody. They are sworn to do their duty, and whether they have done right or wrong they have given a decision which they believed to be correct. That being the case, I do not think the honorable member for The Upper Hunter showed either courtesy or discretion in saying that the committee shirked their duty.

Mr. McLAUGHLIN: Why did they not submit the evidence?

Mr. PIGOTT: The honorable member does not seem to know what he is talking about, or he forgets that when I brought up the report of the committee I moved that not only the report but the evidence and documents accompanying it be printed. The committee simply had to find certain facts, and to report to the House what they were, and as far as they could to report upon the effect of them. Under the 62nd section of the Electoral Act they may come to a determination one way or the other. If they find that the member was capable or incapable of being elected, they decide accordingly. But if upon any point which arises in the course of the proceedings they desire to refer the matter for the opinion of the House, they are expressly authorised to do so by the 62nd section. In the present case they have chosen to do that. There were two questions referred to them, or rather one question divided into two parts. The first part was founded on the first part of the 28th section of the

Constitution Act, which applies to members who have entered into contracts before they became members, and the second was founded on that part of the section which applies to members who have taken contracts after becoming members. The committee reported upon the facts submitted to them, that they found that an agreement had been entered into—they did not say a contract; and upon that question I may say that the committee were unanimous. Upon the question whether a contract had been entered into, the committee were divided, and being desirous to comply with the section which authorises them to refer such a matter to the House they referred it accordingly, framing their report so as to embody all the principal facts brought out, and then leaving the matter for the decision of the House.

Mr. McELHONE: My opinion at the present time is that I ought to vote to declare the seat of the honorable member for Grenfell vacant; but in so voting without having seen the evidence I might be doing the honorable member an injustice. In fairness, therefore, to the honorable member and ourselves we ought to adjourn the debate until we have had an opportunity of reading the evidence, which I hope every honorable member will do. I think that the committee did not shirk their duty at all, but that they gave an honest opinion upon the point submitted to them. In the case of the honorable member for East Macquarie (Mr. Combes) the motion to declare the seat vacant was moved by the honorable member for Tenterfield as the head of the Government, and I venture to say that if my seat were in question every member of the Government would be only too anxious to move that it be declared vacant.

Sir JOHN ROBERTSON: I should very much prefer not to give a vote upon the question before I have seen the evidence; but if I am compelled by a majority to give a vote I shall be guided by the statement of the chairman of the Elections and Qualifications Committee, though the conclusion at which I have arrived from his statement is entirely different from the conclusion at which he himself has arrived. The honorable member told us that there was no contract, but that there was an agreement. It is difficult to

[Mr. Pigott.]

see how there could have been an agreement where there was no contract, and where both parties were not bound. The Minister for Works, who is a very intelligent gentleman, would not have dared to return the deposit of £600 if he had not believed that no contract was entered into. It is quite clear to me, on the statement of the chairman of the committee, that there is no case requiring that we should vacate the seat of Mr. Vaughn.

Mr. GARRETT: In this case I do not think the evidence is necessary to enable us to come to a conclusion. The evidence can prove no more than is clearly stated in the report of the committee, which contains every point that could possibly be elicited, and, unless we are to suppose that the committee would be guilty of misrepresenting the facts given in evidence, there is no necessity for us to have the evidence, but we may come to a decision at once. The question referred to the committee was whether Mr. Vaughn, in conjunction with another person, entered into a contract with the Government. Now, the committee did not deal with that point at all; they merely say that Mr. Vaughn entered into an agreement, and the only point we have to consider, according to the facts stated in the report, was whether that agreement was eventually carried out. That was an agreement to enter into a bond; but he did not enter into a bond, and the agreement itself was cancelled by the deposit of £600 being returned. The committee being convinced by the evidence that there never was a contract took up the question whether there was an agreement, and they afterwards took the backbone out of that point by admitting that the £600 which would make the agreement of any validity was returned.

Mr. POOLE: It was forfeited!

Mr. GARRETT: That does not alter the case. The question referred to the committee was as to whether a contract was entered into. There was no contract. The bonds were never signed, and, as the honorable member for Mudgee, Mr. A. G. Taylor, put it, there was no mutuality in the matter; but there must be mutuality to make a contract. The matter is one which comes legitimately before the House. We referred it to the Elections and Qualifications Committee for their opinion, and they have given a very undecided opinion.

In this case above all others if there is any doubt we ought to give the gentleman whose seat is in question the benefit of the doubt.

Mr. SLATTERY: If the motion goes to a division, I am prepared to vote against it. I shall do so on this ground: that it must be beyond all possibility of a doubt in the mind of any one who reads the 28th section of the Constitution Act that the honorable member did not enter into a contract, and did not complete an agreement. He tendered for certain work, but he did not enter into a contract. A contract must be something entered into in such a way that it can be enforced in a court of law. I have no sympathy whatever with the statement made in reference to the Elections and Qualifications Committee. I think they sent in a proper report, and the case is one entirely for the consideration of the House. I may say, however, with great respect to the honorable member for Grenfell, that I think it a very undesirable thing that any member of the House should tender for public works. If I have to vote at all to-night, I shall vote for the adjournment, because a few honorable members who have not made up their minds desire to read the evidence. If honorable members are allowed to tender for public works, the independence of the House will be completely sapped. I should like also to point out that under the Constitution Act any incorporated company or any trading company consisting of twenty persons may enter into contracts "for or on behalf of" the public service. When the Constitution Act was passed we had not the present Companies Act in force. We find from that act that any seven persons, by merely registering a memorandum of association in the Registrar-General's Office, can become an incorporated company with or without liability. Seven members of Parliament could do this, after which they would have power to enter into contracts with the Government. I say that it is a dangerous state of things, and the sooner these two points are rectified the sooner will the independence of Parliament be placed beyond all doubt. Some provision ought to be passed extending the application of the 28th section of the Constitution Act, so as to prevent members of Parliament from tendering for public

First night.

works as well as from becoming contractors for public works. There ought also to be some amendment of the Companies Act, because if seven members of a government chose to become incorporated as a company they could enter into a contract for and on behalf of the public service, and no one could interfere either with that contract or with their seats. I trust that the Government will take this matter into consideration.

Mr. POOLE: I have listened with attention to the remarks of the legal members of the House as to what may be termed the essence of an agreement. I feel that I speak at a great disadvantage in following a speaker like the honorable member for Boorowa. As an old contractor, however, I know it has always been held that an agreement was really entered into between the tenderer and the Government, when the Government had once written accepting the tender. The honorable member for Camden, who is well versed in all these matters, said he thought that the evidence when produced would not afford much further information than the report, and I agree with him. What does the report say? I find that in their report the Committee of Elections and Qualifications make this statement:

That the evidence taken before the Committee for Elections and Qualifications proves that the said Robert Matteson Vaughn, Esq., since the date of his election, in conjunction with another person, tendered to the Government to construct, completely finish, and maintain the various works for contract No. 7, Sydney sewerage, in accordance with the conditions of contract prepared for that purpose, and inclosed a Treasury deposit for £600 sterling, as required by the conditions, and undertook to lodge with the Colonial Treasurer, within seven days from the date of notification of acceptance of the tender, the further sum of £6,000 as security for the due performance of the contract —

Not to make a contract, but as a security for the due performance of a contract. It goes on to say:

and agreed to forfeit to the Queen the sum deposited, with the tender, if the said deposit of £6,000 should not be made or the contract signed as therein mentioned. That the tender was accepted by the Government. That the said Robert Matteson Vaughn, Esq., in conjunction with another person, then discovered that the tender was for too low a sum, and did not lodge with the Colonial Treasurer within seven days from the date of notification of acceptance of the tender the further sum of £6,000 as security for the due performance of the contract —

[Mr. Slattery.

This appears to me to be the pith of the thing. The report of the committee is to this effect:

and the Government notified to the said Robert Matteson Vaughn, Esq., and such other person, that the contract entered into by them had been cancelled —

There must have been a contract, or how could the Government cancel it? They could not cancel what was not in existence. The report says, further, that the deposit money, amounting to £600, was forfeited; but what right had the Government to make the honorable member forfeit that £600 unless he failed to do certain things in accordance with an agreement already entered into? The Government had no power to cause any man to forfeit a sum of money except in virtue of some agreement. The report further says:

That after a lengthy correspondence the deposit of £600 was returned to the said Robert Matteson Vaughn, Esq.; and such other person, and that the contract or bond referred to in the said conditions (and which was to be prepared by the Crown Solicitor) for the performance of the said works was not signed.

I have no pretension to be a lawyer; but it seems plain to me that there was an agreement, and the Constitution Act says that if any agreement is entered into by a member of Parliament to perform Government works his seat shall become void. No one denies that an agreement was made.

Mr. A. G. TAYLOR: Not to perform any works, but to pay a certain sum of money if he did not perform the works referred to!

Mr. POOLE: I have a great respect for the honorable member on account of his persistence in pointing out sore places in constitutional matters; but if that is the law any honorable member can use his position in the House to obtain entrance to and audience at all the public offices. Any honorable member may use his political influence to obtain information at the public offices; he may put in tenders and find out whether the tender of any substantial contractor is much above his, and if so he can say that he has made a mistake and ask to be relieved from his position. If such is the law, the sooner it is amended the better. If the motion for adjournment of the matter is lost, I shall vote for the motion.

Mr. SUTHERLAND: I look upon this as a very serious matter, serious to the honorable member if we do wrong, and serious to the country. We have not before us the evidence necessary to enable us properly to deal with the case. No doubt the committee have dealt fairly with it; but they have referred the issue to the decision of the House, and how are we to decide without the evidence? I have asked for the evidence; but I am informed that it has been sent to the Printing Office. I prefer to act upon my own judgment, and I shall vote for the adjournment in order to allow time for the evidence to be laid before us.

Mr. GARVAN: I think it is desirable to adjourn the debate. I am very anxious to give a fair vote on the subject, and as far as I can see I shall be compelled to vote against the honorable member. If it is sound that any member of the House can tender for any great work, and hold in his hands for any period of time the power to force the Government to continue that contract, we are giving a power which is neither fair nor just, and which is not in accord with the spirit of the Constitution. The honorable member in this case had the power for a certain period to compel the Government to go on with the contract. More than that, he knew what the next lowest tender was; he had the power to enter into collusion with the next tenderer by forfeiting his £600, and possibly causing the country to pay £20,000 more. I believe that the honorable member tried his best to influence the Minister to accept the next lowest tender.

Mr. VAUGHN: No!

Mr. GARVAN: I have been told that during the time he had the contract in his hands he tried his best to influence the Minister to induce him to accept the next lowest tender. If such things can be carried on, there can be no purity in political life. Personally I have a great regard for the honorable member, but when compelled to do my duty I must exercise my intelligence and do my utmost to maintain the purity, character, and honor of this House. I think we shall be acting very unwisely in coming to a decision this evening. Any division snatched on this occasion, even if in his favour, would not be to the honorable member's credit.

Question—That the debate be now adjourned—put, whereupon the House divided with the following result:—

Ayes 35 }
Noes 21 } Majority, 14.

AYES.

Abbott, J. P.	McElhone, J.
Barbour, R.	Melville, N.
Burns, J. F.	O'Mara, T. C.
Chapman, M.	Poole, W. T.
Combes, E.	Robertson, Sir John
Copeland, H.	See, J.
Cramsie, J.	Slattery, T. M.
Dalton, T.	Smith, S.
De Salis, G. F.	Stuart, A.
Dangar, T. G. G.	Sutherland, J.
Farnell, J. S.	Taylor, A. G.
Garrard, J.	Trickett, W. J.
Garvan, J. P.	Wisdom, R.
Gibbs, F. J.	Wright, F. A.
Griffiths, G. N.	Young, J. H.
Heydon, L. F.	<i>Tellers,</i>
Holtermann, B. O.	Mackinnon, J. A.
McCulloch, A. H.	Targett, W. S.

NOES.

Cameron, A.	O'Connor, D.
Campbell, W. R.	Proctor, W. C.
Cass, G. E.	Quin, E.
Day, G.	Ross, Dr. A.
Ferguson, W. J.	Spring, G.
Garrett, T.	Stokes, A.
Gill, J.	Taylor, H.
Levin, L.	Teece, W.
Lynch, A.	<i>Tellers,</i>
Lyne, W. J.	Levin, R. H.
McLaughlin, J.	McCourt, W.

Question so resolved in the affirmative.

CROWN LANDS BILL.

Mr. SPEAKER: The clerk will now proceed to read the orders of the day.

Mr. McELHONE: I beg to move: That this House do now adjourn.

Mr. SPEAKER: When the orders of the day have been called on such a motion cannot be proposed.

Mr. McELHONE: The orders have not been read!

Mr. SPEAKER: When I have directed the clerk to read the orders of the day that business cannot be intercepted by a motion for the adjournment of the House. That has been expressly decided.

In Committee (consideration resumed from 30th January):

Clause 7. All grants of land issued under the authority of this act shall contain a reservation of all minerals in such land and shall contain such other reservations and exceptions as may by the Governor be deemed expedient in the public interest. Provided that whenever it shall be found that land alienated after the commencement of this act contains any mineral the Governor may permit the owner of such land to

remove such mineral upon payment of such royalty and upon such conditions as he may think proper.

Which had been amended (on motion by Mr. FARNELL) by the omission of the words "after the commencement of this act," lines 8 and 9, with a view to insert in lieu thereof the words "under this or any of the said repealed acts."

Question again proposed—That the words proposed to be inserted be so inserted.

Sir JOHN ROBERTSON: Last night, when the discussion was about to close, I challenged the Government to produce the Attorney-General's opinion as to whether a conditional purchaser could legally convert his conditional purchase into a mineral conditional purchase, and we are entitled to see that opinion.

Mr. FARNELL: I never promised to give an opinion from the Attorney-General, nor am I aware that there is such an opinion in existence. This clause has no reference to the conversion of conditional purchases into mineral conditional purchases.

Mr. McELHONE: You said last night that it had!

Mr. FARNELL: I am now replying to the honorable member for Mudgee, Sir John Robertson, and I say that no promise that an opinion from the Attorney-General should be laid on the table has been made, and that the clause has no reference to the conversion of conditional purchases. I am not aware that the Attorney-General has given an opinion on the subject.

Sir JOHN ROBERTSON: Surely we had the speech of the Minister for Mines that these people had no right to the conversion of conditional purchases into mineral conditional purchases, and we spent hours last night on that point! The words now proposed to be inserted take that right from selectors.

Mr. LYNE hoped the Minister would agree to adjourn the debate, as the question was likely to evoke considerable discussion, and the House, at this late hour, was evidently not in a condition to proceed with it. The point raised by the honorable member for Mudgee, Sir John Robertson, would have to be debated, and there were other parts of the clause which seemed to present more difficulty than was at first imagined.

Mr. FARNELL: I am desirous of proceeding with the public business, as we have done no real business to-night, and it ought to be pushed forward on every occasion that offers. If honorable members will not proceed with the clause, or discuss it on its merits, I shall take an early opportunity to move the Chairman out of the chair.

Sir JOHN ROBERTSON: The honorable member has not shown that the amendment will not have the effect I say it will have.

Mr. FARNELL: It will have no such effect. It has no application or reference to the conversion of conditional purchases.

Mr. GARRARD said the honorable member must be aware that the House was in no temper to proceed with this business, and that no progress was likely to be made.

Mr. BURNS pointed out that if the business was protracted to a late hour to-night there would be no prospect of having a house to-morrow to discuss the Medical Bill in the hands of the honorable member for Kiama, which had been before the country for a considerable time.

Mr. YOUNG said it might be true that the amendment, according to the wording, would not affect the conversion of conditional purchases into mineral conditional purchases; but would it not put a stop to the conversion?

Mr. FARNELL: The clause will enable conditional purchasers having grants to mine under their land by paying a royalty, which they cannot do in the present state of the law.

Mr. McELHONE: If when the bill passes the conditional purchaser will no longer have the right to convert his conditional purchase into a mineral conditional purchase, is not that *ex post facto* legislation? The state having given this right to the holder of conditional purchase he would not be a party to taking it away.

Mr. J. P. ABBOTT: In reference to what I stated last night I may say that I have had an opportunity to look further into the question, and to ascertain what is the law in England on the subject. I find my statement made in the House last night with regard to royal minerals is correct; but with the exception of gold and silver all minerals pass with the land to the grantee.

Mr. McELHONE: If the Minister would say that the Government would preserve existing rights, there would be an end of the matter; that was, that they would only reserve gold and silver. Last night the Minister for Mines referred to the baser metals and minerals generally; now he referred only to gold and silver.

Mr. J. P. ABBOTT: Gold and silver are retained by the Crown without any special reservation, whilst all the baser metals, together with coal, copper, tin, and minerals generally, if not specially reserved, pass with the land.

Mr. FARNELL: The object of the clause is to reserve all minerals in alienated land, however it may be sold, and the provision is made retrospective as far as concerns any grant in which there is a reservation of minerals. Some lands cannot be worked for minerals, owing to this reservation, but the clause would enable men to work the land under a royalty. If, in the opinion of the House, the clause is held not to allow the conversion of conditional purchases into mineral conditional purchases, and that is thought desirable, a clause may be proposed for that purpose. The bill does not provide for the sale of any mineral lands. The bill of Sir John Robertson, in 1882, had precisely the same provision, but that honorable member did not provide that conditional purchases might be worked for minerals on paying a royalty.

Mr. LEVIEN said the explanation of the Minister for Mines seemed to increase the difficulty. We did not know what reservations there were in the deeds, and the sooner we got rid of that difficulty the better. Let us have this clearly understood. At present the question was not ripe for decision, and an adjournment would be desirable.

Mr. McELHONE said that the explanation of the Minister had made him more determined than ever to get fair play for the selectors. Would the Minister say that if the bill were passed the right of conditional purchasers to convert their holdings into mineral conditional purchases would not be lost?

Mr. FARNELL: Yes!

Mr. McELHONE said that this was repudiation of the grossest kind. Why should the poor selector, who had to pay £1 for his land, expend £1 in improve-

ments on it, and submit to be chained to it like a dog for a number of years, be put in a position different from that of the man who purchased land at auction at £1 per acre without any condition as to improvement or residence? The Government ought certainly to propose that the existing rights of conditional purchasers be preserved. He approved of the principle of not selling mineral lands in the future.

Mr. FARNELL: The bill provides that there shall be no mineral conditional purchases in future. This clause has nothing whatever to do with the conversion of conditional purchases into mineral conditional purchases. That is quite a different question, and if the Committee thinks that it is advisable to preserve the right of conditional purchasers in this respect a clause will have to be introduced in the bill to give effect to that opinion. I am not prepared to give a pledge that the Government will propose such a clause. As honorable members do not seem inclined to proceed with the bill at this late hour, I beg to move:

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

Mr. COPELAND thought that it would be advantageous to honorable members if they procured papers which he moved for some time ago, giving the forms of all Crown grants issued since the passing of the Lands Act of 1861. Perusal of those papers would show honorable members exactly in which cases reservation of minerals was made. All minerals were reserved on land selected under ordinary conditional purchase; but they were not reserved in the case of land sold under the 19th section, but in this case gold was reserved. There was no reservation of minerals in land sold by auction or acquired in virtue of improvements. Minerals were reserved in land taken up by volunteer order if the land had not been previously offered at auction. If the land had been previously offered at auction, the minerals were not reserved. Minerals were not reserved in any case where land had been previously offered at auction. He should like the Minister to re-draft the clause, so that it would clearly express what he said was the meaning of it. He was as strong an advocate as any one in favour of minerals being reserved in future; but

where minerals had been reserved it would be unfair to take away the right. It would be a serious matter to do this, as in many cases land had been sold over and over again at high prices, and for the state to step in and demand a royalty on minerals which it had not reserved would be nothing less than thieving.

Motion agreed to ; progress reported.

House adjourned at 11.53 p.m.

Legislative Assembly.

Friday, 1. February, 1884.

Ministerial Statement—Linnæan Society Incorporation Bill—Consolidated Revenue Fund Bill (No. 2)—Adjournment (Ministerial Statement—Privilege)—Breach of Privilege—Duty on Tea—Ratable Property: Imports—Ratable Property in Sydney and Municipalities—Conditional Purchases on Miller's Creek Run—Medical Bill (second reading).

MR. SPEAKER took the chair.

MINISTERIAL STATEMENT.

MR. STUART: I desire, with the indulgence of the House, to make a statement. I have to-day received from my honorable colleague, the Minister of Public Instruction, the following letter:—

My dear Stuart,—From the first, as you know, I have thought it simple fairness and justice that the highly technical blunders which have been discovered in legislation, as it affects the office I hold, should be set right without exposing innocent persons, that is to say, my constituents and myself, to the trouble of a fresh election, and I believe it has not hitherto been the practice to treat lightly a deliberate and honest verdict of the electors of any constituency.

I admit that members of the Assembly, especially those on the other side of the House, have freely and generously expressed their regret that the sensitiveness of their constitutional scruples should expose me to the hardship of a re-election. Indeed, their kindness has risen to the expression of a hope that the fresh election would be a mere matter of form, inevitably resulting in my speedy return to the House.

For all this goodwill I ought to feel deeply thankful. It certainly had the effect of making me feel perfectly easy in acquiescing in the course taken by the House in passing a bill to validate a seat, the refilling of which was so generally admitted to be a mere matter of form.

But it appears to me that the position of affairs has suddenly assumed a different, if not, indeed, a party aspect, and that something very like a challenge has been thrown out to me.

In these circumstances I confess my inability to take my seat in the House again, with any feeling of satisfaction, under any validating bill which may be passed.

[Mr. Copeland.

Of course, I cannot, in the present state of the law, appeal to my constituents for re-election, for if I did my election would, if I were successful, be null and void again. That is a hardship and indignity which I am determined the electors of East Sydney shall not be exposed to for a second time in my person if I can possibly help it.

Trusting that you will concur in my view of my duty in this matter, and move my seat vacant when the law is altered, and I can legally appeal to my constituents to say again what they have said in the most unmistakable way twice already, namely, that they choose me to be one of their representatives in the present Parliament.

In consequence of having received this letter, and to enable me to give effect thereto, it is my intention, or rather I should say, I have instructed the Minister in charge of this validating bill, at present before the Legislative Council, to withdraw the 4th clause from the consideration of the Council. The other clauses of the bill are, as honorable members know, necessary in order to remove the disability, which, by the blunders alluded to, remains against my honorable colleague submitting himself for re-election. It is impossible for him to do so until the other clauses of the bill are passed, and the moment the bill becomes law he will do that which he has expressed his intention to do.

LINNÆAN SOCIETY INCORPORATION BILL.

Royal assent to this bill reported.

CONSOLIDATED REVENUE FUND BILL (No. 2).

Royal assent to this bill reported.

ADJOURNMENT.

MINISTERIAL STATEMENT—PRIVILEGE.

Sir JOHN ROBERTSON: I should be sorry to take any course which would be unpleasant to the Minister of Public Instruction; but I wish to point out that his letter is founded on a misconception of his position. There is nothing in the world to hinder him from appearing before the electors of East Sydney as a minister of the Crown—in the position of Solicitor-General.

MR. J. P. ABBOTT: That position was abolished by resolution of the House!

Sir JOHN ROBERTSON: A resolution of the House can abolish nothing. The honorable member talks about being a lawyer.