

## LEGISLATIVE COUNCIL,

Friday, 2nd November, 1888.

Application to purchase land under Clause 48 of the Land Regulations—Specifications for repairs to Pinjarrah Court House—Appropriation Bill (Supplementary), 1888; committee—Constitution Bill: second reading—Church of England Trustees Bill: Report of Select Committee: Point of Order—Adjournment.

THE SPEAKER took the Chair at seven o'clock, p.m.

## PRAYERS.

## APPLICATION TO PURCHASE LAND UNDER CLAUSE 48 OF THE LAND REGULATIONS.

MR. A. FORREST, in accordance with notice, asked the Commissioner of Crown Lands—

1. If it was true that a firm of merchants at Fremantle had applied for 2,000 acres of land under Clause 48 of the Land Regulations, about five miles from Bridgetown, and in the locality of the recent find of tin and other minerals?

2. Will the Government hold over these applications, pending a proper survey?

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) replied that applications had been made—not by a firm of merchants but by a merchant, Mr. W. D. Moore, of Fremantle—for some lands near Bridgetown; and care would be taken, before approving or otherwise dealing with these applications, to make the inquiries indicated by the hon. member.

## SPECIFICATIONS FOR REPAIRS, PINJARRAH COURT HOUSE.

CAPTAIN FAWCETT asked the Director of Public Works, if specifications for repairs to Court House at Pinjarrah, as advertised in the *Government Gazette* of 17th of May, 1888, were forwarded to the officer in charge at the Pinjarrah police station, and, if not, why was this advertisement printed and published in the *Government Gazette*?

THE DIRECTOR OF PUBLIC WORKS (Hon. J. A. Wright) replied that, through some inadvertence, the specifications for the repairs necessary to the Pinjarrah Court House (estimated to

cost £60) were not sent to the officer in charge of the police, nor did that officer apply for any, had there been any contractor on the spot wishing to tender. The *Gazette* notice was printed and published as usual.

## APPROPRIATION (SUPPLEMENTARY) BILL, 1888.

This bill passed through committee *sub silentio*.

## CONSTITUTION BILL.

THE COLONIAL SECRETARY (Hon. Sir M. Fraser): Sir—I rise, I may say, with a considerable amount of satisfaction on this occasion to move the second reading of a bill to confer a Constitution on Western Australia. The last occasion on which I rose to address the House with regard to a bill of a similar character, and very much on the same principle, was on the 5th of August, 1874, now fourteen years ago; and I regret to say, sir, that the only hon. members now in the House who were also present on the occasion when the second reading of the Constitution Bill in 1874 was before us, are the hon. member for Fremantle (Mr. Marmion), Sir Thomas Campbell, Mr. Burt, Your Honor, and myself. These are the only five members in the House now who were here when we discussed this momentous question over fourteen years ago. It will not be necessary for me, sir, in any way to deal with the question of whether we should adopt Responsible Government or not; that has already been settled, and hon. members have now before them the bill which proposes to give the colony that form of Government, and it is our duty now to consider that bill. Therefore I shall address myself at once to its provisions. The bill, itself, as hon. members are aware, is divided into six parts, and the first part is that which is designated "Parliamentary." In this portion of this important measure we find all the machinery provided for the government of the colony under the new Constitution. We find it provided here—addressing myself to the first portion of this division of the bill—that the future Parliament is to consist of a Legislative Council and a Legislative Assembly, and that the Legislative

Council shall consist in the first instance of not fewer than 15 persons, and that the Legislative Assembly shall consist of 30 members, to represent the electoral districts which are defined in Schedule "A," which has been laid on the table. It may be not unimportant that I should now, before addressing myself to the constitution of the Legislative Council under the new order of things, draw the attention of hon. members to the constitution of the Upper Houses of the various Australasian Colonies. No doubt there are members here who have given great attention to the Constitutions of these colonies; at the same time even to these as well as to those who perhaps have not given that attention, it may be as well at this moment that I should state shortly and in concise language the nature of the constitution of the Upper Chambers established in the other colonies. First taking Australia, as distinguished from Australasia, we find that in the important colony of Queensland, the members of the Upper House are nominated by the Governor, and they hold their office during life. The Upper Chamber in Queensland at present consists of 36 members, holding their position, as I have said, under a life tenure. Leaving Queensland and going to New South Wales, we find that the Legislative Council there at present consists of 60 members, of whom not less than four-fifths in number must be persons not holding office under the Crown. In the first instance I may say, on reference to the records, the first Legislative Council of New South Wales was nominated for five years only; but all subsequent appointments have been for life. Passing from New South Wales to the important colony of Victoria, we find there a different Constitution as regards its Upper House. There the Legislative Council consists of 42 members, all elected, and representing fourteen different provinces; and the arrangement as to their retirement is that one member for each province retires in rotation every two years, so that a member's tenure of office generally is for six years. Passing on to the colony of South Australia, I find that the Legislative Council there consists of 24 members, who are elected, the colony being divided for that purpose into four electoral districts. The eight members

whose names stand first on the roll retire in rotation, and their successors are elected from the four electoral districts, each district returning two. In the colony of Tasmania, the Legislative Council consists of 18 members, who are elected for fifteen electoral districts, the tenure of seat being six years. In New Zealand the members of the Upper House are appointed by the Governor, and hold their seats during life. So that we find, sir, that of the six colonies in Australasia already possessing Responsible Government, three—Queensland, New South Wales, and New Zealand—possess nominated Upper Chambers. Reference to the latest general statistics gives the population of Australasia, at the end of 1886, at about 3,500,000; and I find that of that number these three colonies I have mentioned as possessing a nominated Upper House contain an aggregate population of 1,934,000, or close upon 2,000,000. Now I come to the qualification of members and of electors in the various colonies. We find that in Queensland there is no property qualification required for membership, in either branch of the Legislature, and that the franchise is on a most liberal footing—in fact, it is equivalent to manhood suffrage. In New South Wales the qualification for members extends to every male subject of Her Majesty of the full age of twenty-one years, being a natural-born or naturalised subject; and the franchise is given (subject to certain disqualifications) to every male subject of full age, and absolutely free. But in New South Wales there are two classes of electors; there are resident electors and non-resident. Resident electors are those who have resided in the district six months preceding the making out of the electoral list, and who do not labor under any disability. Non-resident electors are those who possess a freehold or leasehold estate of a certain value in any electoral district of the colony, and they have a vote given to them for each district in which they may possess this property. But they have only one vote for any district, whether they reside in it or not. In Victoria the property qualification of membership for the Upper House is the possession of a freehold estate of the annual value of £100, above all charges and encumbrances, and the

qualification of electors is the possession of freehold property rated at not less than £10 a year, or being the leaseholder or occupier of property rated at not less than £25 a year. There are other qualifications relating to professional men, teachers and matriculated students. With regard to the Legislative Assembly, or Lower House, the qualification is very low, both for members and electors, the latter being virtually manhood suffrage. In South Australia, too, they seem to have arranged these things on a very liberal basis. The qualification of members for the Upper House is that they be of the full age of 30 years, natural-born or naturalised, and have resided three years within the province. The qualification of voters for the Upper House is freehold property of the clear value of £50, or a leasehold estate of the annual value of £20. Any person qualified to vote as a voter in any electoral district is qualified to take his seat in the South Australian Lower House, and the only qualification for a voter is that he be of the full age of 21 years, and has been enrolled for six months on the electoral roll. In Tasmania there is no property qualification for members of either branch of the Legislature; but electors require a property qualification for both Houses, or must be in receipt of an income or salary amounting to £60 per annum. In New Zealand they have now what is almost equivalent to manhood suffrage, so far as the House of Representatives is concerned. So much, sir, for this short review of the qualifications and conditions attached to membership, and to the franchise in the other colonies. Coming now to the provisions of the bill before the House, it is proposed by this bill that the Legislative Assembly here shall consist of 30 members, to be elected for the various divisions of the colony as defined in Schedule "A," now on the table, and also shown on the map on the wall. With regard to the qualification of members for both Houses, the Legislative Council and the Legislative Assembly, the bill provides that they shall be natural-born or naturalised subjects of Her Majesty of the full age of 21 years, and be possessed of freehold property within the colony of the value of £500 above all charges and encumbrances, or of the yearly value of £50, and that the

owner shall have been possessed of such estate for at least one year previous to his nomination or election. Provision is made in the bill that no person can hold a seat, or continue to hold a seat, in either House, under the new Constitution, if he is what is commonly called a Government contractor,—that is, if he enjoys either in whole or in part, "any contract, agreement, or commission made or entered with, under, or from any person whatsoever, for or on account of the Government of the colony." But there is one important omission, I think, sir, in this bill, which I find in existence in most of the Constitution Acts of the other colonies,—though it is an omission which may prove greatly to the advantage of any Ministry under the new Constitution. What I refer to is this: there is nothing in the bill requiring that a member shall vacate his seat or seek re-election, on accepting office in the Ministry. This is a very important, but I think very proper provision, or at any rate a very convenient one, in a colony of magnificent distances like this. It would be highly inconvenient, sir, for the member for Kimberley, for instance, in the event of his accepting office under the Crown and becoming a Minister in any Government, that he should have to vacate his seat, and go to his constituents at the far North to seek re-election. It would involve a great loss of time, and be a source of great inconvenience to his colleagues in the Ministry. I have said this is an important omission in the bill; but I think it is one that should be appreciated, when we come to consider the circumstances of this colony. I am not aware, sir, at the present moment that I need say any more upon this division of the bill. Of course when we come to discuss it more in detail, each clause must necessarily demand great attention, and will be closely scrutinised and examined. Passing on to another division of the bill, under the head of "Legal," we find a provision here that "all laws, statutes, and ordinances which at the commencement of this Act are in force within the colony shall, until replaced or varied by any Act of the Legislature, continue to be of the same force, authority, and effect as if this Act had not been passed." Of course that is absolutely necessary in

order to provide for continuity of the statute law, and allow it to run smoothly. In this division of the bill, in clause 49, we find an important provision which has been considerably discussed, but which, so far as I know, has not been disagreed with on any previous occasion when the proposal to institute a new Constitution has been before the House, and that is, that nothing herein contained shall prevent Her Majesty from dividing the colony in the future, and separating one portion from the other, and erecting it into a separate colony, under such form of Government as Her Majesty may think fit, or from re-uniting to the colony of Western Australia any part of the colony so created. Hon. members will observe that there is an absence of any provision in the bill dealing with the public lands, and that is fully explained by a reference to the despatches of the Secretary of State on the subject. I would refer hon. members in the first instance to the published despatch of the 30th July last, in which His Lordship states, with regard to the future separation or division of the colony, and the disposal of the waste lands: "I propose to leave in force the Acts 18 and 19 Vic., cap. 56, and to make new regulations under that Act, which, after preserving all leases and rights which have been duly granted or created, would vest in the Legislature of Western Australia the sale, letting, and other disposal of waste lands of the Crown South of Latitude 26 deg., or of such parallel of latitude or other boundary as may from time to time be approved by Her Majesty in Council for that purpose, and would give them full power over the proceeds arising from the sale, letting, or other disposal of those waste lands. The Regulations affecting the Crown Lands within the territory North of Latitude 26°, or other boundary, would, after preserving existing interests, follow the lines pointed out in section (c) of paragraph 9 of my despatch, of the 12th of December, 1887. The existing Regulations could readily be adapted, if indeed they could not be retained in their present form." Then, again, in his despatch following, dated 31st August last, covering the draft Constitution Bill, Lord Knutsford says—writing to the Governor: "As you will have anticipated from

"my despatch of the 30th July, the 44th clause of your bill, placing the disposal of the waste lands in the hands of the new Legislature, has been omitted; and I shall in due time be prepared to advise Her Majesty to issue such regulations under the Act 18 and 19 Vict., cap. 56, as may be necessary for carrying into effect the arrangement described in my despatch." I thought it necessary, sir, at this point, to allude to the omission in the present bill of any reference to the question of the disposal of the waste lands of the Crown, and the non-necessity for such reference. Passing on to the next division of the bill, under the head of "Financial," I come to a provision requiring an annual sum to be set apart from the consolidated revenue for the benefit of the aboriginal inhabitants. Hon. members will find that in clause 58 provision is made for a sum of £5,000 being appropriated annually "to the welfare of the aboriginal natives, and expended in providing them with food and clothing when they would otherwise be destitute, in promoting the education of aboriginal children (including half-castes), and in assisting generally to promote the preservation and well-being of the aborigines." It is not necessary, sir, that I should make further allusion to this matter at present, as this question is specially dealt with in a separate bill now before the House, and which will be read concurrently with, or immediately following, this bill. I would draw attention to another important provision of the bill contained in clause 61, which is as follows: "The Legislature of the colony shall have full power and authority, from time to time, by any Act, to repeal or alter any of the provisions of this Act. Provided always, that it shall not be lawful to present to the Governor for Her Majesty's assent any bill by which any change in the Constitution of the Legislative Council or of the Legislative Assembly shall be effected, unless the second and third readings of such bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly respectively. Provided also, that every bill which shall be so passed for the election of a

"Legislative Council shall be reserved by the Governor for the signification of Her Majesty's pleasure thereon." Hon. members will therefore see that although this bill provides for the present proper government and management of the public affairs of the colony, it still leaves it open to revision hereafter, subject to the approval of Her Majesty. I feel, sir, that at this stage it is unnecessary that I should detain the House longer by dealing discursively with other provisions of the bill, as I am aware that hon. members have thoughtfully considered the whole question, and that any light I may endeavor to throw upon the subject will present it in no new aspect. But I think I may here be permitted to read the concluding paragraph of the last despatch from the Secretary of State for the Colonies, to which I have referred before. Referring to the bill which hon. members have now before them, Lord Knutsford writing to His Excellency the Governor, says: "In conclusion, I have to state that should the bill I now send be adopted by the Legislative Council, I shall be prepared to take steps for the introduction into Parliament of the bill which, as I have already informed you, it will be necessary it should be passed before Her Majesty can be advised to assent to the measure. Her Majesty's Government do not, however, desire to preclude the Council from altering any details in the bill so long as the main principles are maintained, especially the nominated Council, the division of the colony for the purpose of land regulation, and the protection of the native inhabitants of the colony." Sir, I sincerely trust that the passage of this bill, unlike its predecessor which I referred to in my opening remarks, and which was before us over fourteen years ago—I trust and hope, sir, that the passage of this bill will be a safe one and a speedy one, and that the colony may derive from it all those advantages which I myself believe it is calculated to bring. On this occasion I am sure I may be permitted to say so, although as hon. members are aware, this bench necessarily remained silent when the question was simply whether or not a new Constitution was desirable; to have actively advocated such a change when the question was in the balance would, politically speaking, have been suicidal on our

part because it would be the advocacy of a measure which deprived us of our office. But I feel no such restraint now, sir. The die has been cast; the change has been decided upon, and I feel I may now go back and refer to this question in the same spirit as I did when the same question was before the House in 1874, and say that I believe the change is in the best interests of the colony, and that it gives us the best promise of the early and rapid advancement of the colony, when its people take upon themselves the management of their own affairs, and the reins of Government are placed in the hands of the selected of the elected of the people. Sir, I beg now to formally move the second reading of the bill.

MR. PARKER: Sir—Every one of us must feel that this is a very important matter we have to discuss, and I think all of us who have labored in the cause of free Government in this colony ought to be gratified that our labors are about to be crowned with success. We have no doubt still a considerable amount of labor to go through, and probably some months may elapse before we have this new Constitution fully established amongst us. But, having this bill now before us, we can now look forward and see clearly that the end of the old Constitution is rapidly drawing to a close; and I feel, sir, it is very graceful on the part of the hon. the Colonial Secretary at this stage to add his testimony to the fact—or rather to add his testimony to our general belief, that under our new Constitution we shall gain many advantages which we cannot obtain under our present form of Government. We shall not only have the management of our own affairs, we shall not only be able to do what we think proper with our own funds, and with our own lands—at all events South of the 26th parallel of latitude—we shall not only be able I hope to develop the resources of the country, to raise loans if necessary for that purpose, and to promote the settlement of the soil, we shall also be able to do all this without reference to, and without the control, of a distant authority. What we feel, and what the colony feels, and what hon. members no doubt have felt for many years past, is the very ill effect upon the progress and prosperity of the colony of

its being guided and governed, and its destinies controlled, by persons residing 12,000 miles away, who know nothing practically about our requirements or our resources. I do not for a moment deny that the Colonial Office authorities have been guided and animated by a desire to do what they thought best in the interests of the colony; but as the Colonial Office has not had any practical experience of our wants, as it has no practical knowledge of our resources—in short, as it is not on the spot—it has been to that extent handicapped, and, however good its intentions, it has not been able to do what we who are here believe, and ought to know, is best for the interests of the colony. We feel, sir, that we are now about to change all that. We feel that under a freer Constitution the people of the colony will be able to govern themselves, they will be able to send to their Legislative Assembly—and to their Legislative Council, I trust—members and ministers of their own choice, to represent and carry out their wishes, and to do their utmost, as we all hope they will, to promote the settlement of the soil, to increase population, to give us a community of producers as well as of consumers, to encourage trade and industry, and to place Western Australia in the course of time in a position worthy of a member of this great Australian group. That, sir, at any rate should be our earnest endeavor; and I feel, sir, it is a matter for sincere congratulation that at last, after many years waiting, we have the prospect before us, a near prospect, of having our labors crowned with success. Sir, it is a matter of regret to all of us that the Secretary of State and the Imperial authorities have not thought proper to fall in with our views and our wishes with regard to various questions connected with the establishment of this new Constitution, and that the Secretary of State has not assented to the resolutions which this House addressed to him last year; especially do I think it a matter of concern that the Home authorities insist that we shall have a nominated instead of an elected Upper House. The Colonial Secretary, in moving the second reading of this bill, pointed out and pointed very truly, that the major portion of the population of the Australasian colonies—so far as population is concerned—have

nominated and not elected Upper Chambers; but we know, sir, that others of their number, three of them, and one of the three being Victoria the most populous of the whole group and the most prosperous, have elected Upper Houses. We know also that these Legislatures were established under the provisions of the same Imperial statute by which we are enabled to establish our Constitution; and we know further that the Imperial authorities made no objection in their case to their having their Upper Houses constituted on the elective, and not on the nominative principle. Therefore one is surprised to find, at this late hour, when the last portion of her Australian possessions is passing from the hands of the Mother country, that the Secretary of State should make a stand and insist upon our Upper House being a nominated chamber. One would have thought that as the Imperial authorities did not interfere with the choice of the other colonies, but left them to deal with the matter as they thought best, and to deal with the matter in a way, I maintain, they were entitled to deal with it under the Imperial statute, by virtue of which we are now about to establish our own Constitution—one would have thought, sir, that having offered no opposition to the choice of the other colonies of the group, the Imperial authorities would not have felt it necessary nor proper to interfere with our own right of choice in this matter, especially after our having passed a unanimous resolution—I say unanimous, because there was no division taken on the question—in favor of an elected, instead of a nominated, second Chamber. And, sir, one is still more surprised to find Lord Knutsford taking any exception to our having any kind of Upper House we chose, when we bear in mind that in the first instance His Lordship did not think we required an Upper House at all. The Secretary of State first advises us to have a single Chamber only—a single Chamber, he thought, with our present population, would be ample for all our requirements—and then, finding that we wished and decided to have two legislative chambers, like the rest of the colonies, saying we could have two, but the Upper House must be a nominated House. Now, sir, that does seem some-

what extraordinary. We are told in the first place that the Secretary of State does not think we require an Upper House at all, but, when he finds that we are determined to have one, he turns round and says "Then it must be a nominated one." Hon. members will bear in mind the resolutions passed by this House last year, in reply to the despatches of the Secretary of State. One of those resolutions was to the effect that we saw no necessity, as suggested, for any division of the colony at present, that we were prepared to give way on the question of the waste lands, but that we desired to have the whole colony and not a portion of it. We further declared that we saw no reason why the aboriginal population of the colony should not be placed under the same control as the other subjects of Her Majesty in this colony, under the new Constitution. Well, sir, we sent these resolutions home, but the Secretary of State adheres to his views. He still insists that the colony shall virtually be divided at this 26th parallel of latitude, or thereabouts; he still insists that there shall be a separate body, independent of the Government for the time being, who shall have the sole control and management of native affairs. Well, sir, if the Imperial authorities will but agree that we shall have an elected Upper House, I am prepared on my part to give way on these other questions. So far as the question of Separation of the colony is concerned, perhaps I am not quite correct in saying that the Secretary of State insists, or that it is insisted, that the colony should be divided. What is insisted upon is that while we should have the management of our lands South of that parallel, the Northern portions of the lands of the colony should be subject to the control and management of the Home authorities; and there is a provision, I find, in the bill which enables the Imperial Government, at any time it thinks proper, to divide the colony at the point where the present Land Regulations virtually divide it, and subsequently to sub-divide it, in any manner they think fit. So far as the Northern portion of the colony is concerned, if population increases, if our goldfields up there turn out successful, if tropical cultivation is largely resorted to, entailing the employment of coolie labor, if the population,

as we may expect it may, consists largely of squatters, and planters, and those engaged in mining operations, it appears to me that it will be impossible for us to retain possession of our Northern territory. It will be as difficult for us to keep that portion of the colony, with its different conditions of life, its different interests, its different requirements, and its different industries, as New South Wales found it to retain possession of Queensland. Even in Queensland itself, although that colony extends over a much less area of country in length than our own colony does, we find there exists a great outcry at the present time for separation of the North from the South; and we may rest assured that in progress of time the same cry will be raised here, and that the Northern portions of the colony will not be content to be governed from this immense distance, by people who cannot be so intimately acquainted with their requirements as those on the spot. Therefore, I say I look forward, at some future time, sooner or later, to a division of this colony so far as the Northern territory is concerned; and I do not regard it as a matter of great importance to us, this determination of the Home authorities that, under our new Constitution, we shall not have the control of the lands in that part of the colony. With regard to this native question, too, I do not think it is really worth while quarrelling with the Secretary of State over it. We know that for some time past we have had an Aborigines Protection Board here—a body especially established to look after the interests and welfare of the native population, and that this Board is virtually independent of the Legislative Council and of those who are sent here to represent the people. We know, too, that this House annually votes a sum of money to be expended by that Board in such manner as it may deem fit. Therefore the principle involved in this proposal of the Secretary of State—that there should be a body independent so to speak of the Government of the day, entrusted with the control and management of native affairs—is virtually in operation at the present time; and it appears to me that any further opposition to this suggestion must be based rather upon sentiment than upon principle. On the other hand, I cannot help

thinking that any Government or Ministry relieved from the trouble and worry of managing these native affairs will find it a matter for gratulation rather than disappointment. Therefore on these two points I feel, myself, that we may fairly compromise with the Home authorities. But with regard to this important question of the constitution of the second chamber, I think, sir, that is a point of principle upon which, as the representatives of the people, we ought to insist upon being heard again by the Secretary of State. There is no doubt that in those colonies mentioned by the Colonial Secretary as possessing nominated Upper Houses, those nominated chambers have worked fairly well; but, on the other hand, if the hon. gentleman had made inquiries, as I have no doubt he has, he could have told us that in all those other colonies, possessing not a nominated but an elected Upper Chamber, these Upper Houses also have worked fairly well. Not only that; it is generally recognised in these colonies that an elected Upper House exercises more power, possesses greater influence, and is looked upon with a greater amount of popular aspect—has, in fact, more backbone—than a nominated Upper House, consisting of Crown nominees. What we virtually desire here is, not simply to follow in the wake of any particular colony so far as our new Constitution is concerned; what we desire, and what we are aiming at, is to endeavor to establish a Constitution such as we consider will best answer our own requirements. It cannot be denied, I take it, that the best in principle and the best in its actual working is that Upper House which essentially commands the most respect, which is capable of exercising most power, and which is calculated to influence most beneficially the course of legislation. That, sir, is the kind of Upper House which I am prepared to advocate for this colony, and I believe it is the Upper House that will command the approval of the majority of the people of the colony. I think, sir, if those colonies which have been named by the Colonial Secretary as having a nominated Upper House had the opportunity of again establishing a Constitution for themselves, we should not hear of their adopting this nominative principle. The spirit of the age, we may say, is now in favor

of election, in political matters. We know that in every part of the civilised world almost public opinion largely preponderates in favor of giving the people themselves a voice in all matters concerning the public welfare, and a direct voice in the election of those who are to be entrusted with the work of legislation and administration. If we are to accept the principle of nomination, as regards one of the two branches of the Legislature, how can it be said that the people have a voice in the matter. One of the members of the Ministry itself would be nominated by the Governor, and not elected by the people; so that we should have the whole of this nominated branch of the Legislature absolutely independent of popular influence or control, and even one member of the Ministry equally independent, and responsible to neither constituency nor party. I am happy to observe, sir, that the Secretary of State himself acknowledges that hereafter we should go in for an elected Upper House. Lord Knutsford's proposal appears to be that we should accept a nominated Upper Chamber now, and by-and-bye abandon it, and adopt an elected Upper Chamber. In his despatch of the 30th July, His Lordship assents to the creation of a second Chamber, but says: "I still think it desirable that such Chamber should be nominated—at all events in the first instance, and until the population of the colony has considerably increased." I gather from that, sir, that the Secretary of State admits the superiority of an elected Upper House in the future, and that we ought to get one. But what I wish, sir, is this: I wish to see provision made for that elected Upper House in our Constitution at present. I want to see our new Constitution entering upon its existence with both Houses of the Legislature elected by the people. If we allow this bill to become an Act as it now stands, and establish a nominated Upper House as an integral part of the Constitution, we may feel sure, sir, that whatever the representatives of the people hereafter may desire in the Lower Chamber in the way of abolishing that nominated Upper House, the members of that House themselves will never consent to such an act of self-effacement as to pass a bill providing for the extinction of their own House. Therefore, sir, it appears to me, if we pass this

bill, we shall never have an Upper House elected by the people themselves, however much the Secretary of State may then desire it, or however much the representatives of the people here may desire it. [THE COMMISSIONER OF CROWN LANDS: Question.] The Surveyor General says "question." I think I am borne out by the fact that in none of the other colonies has an Upper House ever been prevailed upon to put an end to its existence, to please anybody. I believe that the futility of attempting to alter the constitution of the Upper House has operated against any serious effort being made in that direction. New South Wales, we know, has had a nominated Upper House for the last thirty years, and we have never yet heard of its showing any disposition to give way—as Lord Knutsford seems to expect our nominated Upper House would give way—in favor of an elected Chamber. I feel sure that if the Legislative Assembly of that colony, and the people at large, felt they could pass a bill which would be assented to by the Upper House, substituting the elective for the nominative principle, it would not be long before we would find an elected Upper House prevailing even in the mother colony of the group. While on this subject, sir, I am happy to be able to quote in support of our desire for an elected Upper House, the words of the present Governor, Sir Frederick Broome, and, before doing so, I may say that I think this colony owes a debt of gratitude to His Excellency for the able, concise, and explicit way in which the Governor has advocated our views in this matter, in addressing the Secretary of State. His Excellency even went out of his way, as members will observe, to oppose the views of the Colonial Office, and to advocate the views that had been put forward by this Council, and I think we ought to be grateful to His Excellency for having so strongly supported our cause. On this question of the constitution of the Upper House, the Governor, writing to Lord Knutsford, says: "I would still respectfully adhere to my recommendation that the Upper Chamber should be elected not nominated. As an elected chamber, it could not but command a greater degree of prestige and confidence; it would be less open to democratic attack; and it

would be able to exercise its powers with greater freedom and more accepted result than could be the case with a nominated Chamber." Now, sir, with regard to this question of a nominated or elected Upper House, if we could possibly arrive at some compromise on the subject without much loss of time—if the Secretary of State, with whom we have to deal in this matter, were within a reasonable distance of the colony—the compromise which I would suggest—and I cannot help thinking it will be considered reasonable—is that the Constitution Bill now before us should provide that, in the first instance, the members of the Upper House should be nominated, for a period of say six years, and that at the expiration of that term—and it should be so provided in the present bill—all these nominated members should cease to hold their seats, and that all the members afterwards should be elected, in the same manner as the representatives in the Lower House. That, sir, is a compromise I should be very glad myself to see adopted; and, probably, if hon. members vote for the amendment which I shall presently propose, it may have the effect of bringing about some such compromise as that. Sir, I presume that when this bill has been read a second time, or even if it is not read a second time, and this amendment I am about to propose is carried—I presume, sir, that this Council, as soon as the present business is finished, will be dissolved, and we shall be sent to the country; and it will be for the country to decide, firstly, whether we shall have Responsible Government or not, and, secondly, it will decide on the principles of the bill introduced to-night by the Colonial Secretary. I imagine that will be the result, whatever we may do this evening—whether we read the bill a second time or not. Hon. members, I take it, need not fear that if they decline to pass the second reading of the bill in its present state, they are shelving or deferring the settlement of the question of Responsible Government for an indefinite period. It appears to me that whatever course is adopted towards this bill this evening, it can have no effect as to any subsequent action that may be adopted as regards the bill. On the other hand, I take it, that if the amendment I am about to propose is carried, and the

effect of it is telegraphed, as I intend it should be, to the Secretary of State, we shall have an answer probably within a week or ten days; and, if the Secretary of State still "insists" (as he puts it) upon the principle of a nominated Upper Chamber, we may then again consider this bill, in its present shape, and, if we think proper, we may pass the second reading of it, at the present session. The Colonial Secretary, sir, referred also to the subject of the qualification of members, and also the qualification of electors. I do not propose at this stage to discuss the qualification of members for the Upper House, for, until we decide whether we are to have an elected or a nominated Upper House, it is somewhat premature to decide what shall be the qualification of members, or even the qualification of electors for that chamber, unless we are sure we are going to have an elected Upper House. But with regard to the qualification of members for the Lower House, I cannot help thinking that no property qualification should be required,—that it ought to be sufficient qualification for a member of the popular chamber that he had the confidence of the constituency that returned him. [SEVERAL HON. MEMBERS: No, no.] Some hon. members say "No, no." I see, sir, by this bill that no person shall be qualified to be a member of either House, "unless he be seised at law or in equity of an estate of freehold, for his own use and benefit, in lands or tenements within the colony of the value of £500." Well, sir, that is not perhaps a very high property qualification. I dare say if any man puts his wits to work, and is consumed with a desire to get into the House, he would not have much difficulty in doing so, and obtaining that qualification. On the other hand there may be very scrupulous and very honest persons who may not possess that qualification, but who in all other respects are admirably qualified to represent a constituency, and who may command the votes of a large majority of the electors; and I maintain, sir, it is better for us to leave the whole matter in the hands of the electors, to return whom they think proper to represent them, without trying to keep out men who are in every sense fit to occupy a seat in the Legislative Assembly except that they don't

happen to possess an estate worth £500. With regard to the qualification of electors, I must say I think our present qualification is too high; and I shall be prepared to lower the franchise, and also to widen the franchise. I shall be prepared to widen it in this direction: I would give lodgers a vote, and I would give other persons votes who have them in the neighboring colonies and in England. I think it would be better for us, in starting with our new Constitution, to lay the foundations of it on as broad a basis as we safely can, and reduce the electoral franchise and liberalise it as far as we can, rather than to have a clamour raised, immediately after we entered upon Responsible Government, for a reduction of the franchise—as we certainly should if we adopted this bill as it now stands. But the main object, sir, I had in addressing the House this evening was with a view of bringing more prominently before hon. members the question of whether we intend to insist upon the terms of the resolution passed, unanimously I may say, last year, that we should have an elected Upper House; or whether we intend quietly to submit to the dictation of the Secretary of State, and accept a nominated Upper House, at his bidding. Sir, I propose as an amendment upon the motion of the Colonial Secretary, to leave out all the words after "That," and insert the following words: "this House, while otherwise agreeing to the main provisions of the bill, objects to pass any measure which provides for a nominated Upper Chamber."

MR. RICHARDSON: Sir—With reference to this vexed question of a nominated Upper House it appears to me that so far as the principle of an elected Upper House being better than the principle of a nominated Upper House is concerned, I do not think the point is open to very much question. I think that in our case it is the fear of delay that is influencing hon. members. I think the great majority admit that the elective principle is better than that of nomination, but that they are influenced by the consideration that unless we accept what is offered to us some delay may intervene before we get this change of constitution at all. They see this long-wished for joy within their grasp, and they are loth to postpone it, for fear that they may ultimately lose it.

But I do not think myself there is any fear of that, or that we need have any apprehension about it. It is only a question of waiting a week or ten days for the reply of the Secretary of State; and it does seem to me, after waiting years for this long-wished for blessing in the shape of Responsible Government, it would be a somewhat unseemly procedure on the part of the House to swallow this nominated Upper House, if we don't believe in it. I think every member of this House whose opinions and convictions are truly and honestly in favor of an elected Upper Chamber would be guilty of sacrificing his convictions to a very unseemly expediency, if instead of waiting a few days to see what Lord Knutsford has to say to this amendment, they accept this bait of a nominated House and say no more about it. Not that I don't think a nominated Upper House might in the first instance be made up of good men—it would probably consist, at first, to a great extent, of the very men who would be elected, and possibly to some extent it might consist even of better men than would be elected. But it is what might happen afterwards, it is the future welfare of the country that we have to look to; and I say we are not justified, for the sake of present expediency and to save ourselves a little trouble and perhaps inconvenience, to sacrifice that which may seriously affect the future destinies of the colony. We are a very young country yet, we are only just entering upon our political heritage, and the future is all before us; and I do think we should pause before we do anything rashly or hastily, and pledge or forfeit the future interests of the colony to a mere temporary expediency, and sacrifice our principles and our honest convictions to—I won't say what. It appears to me that once we get this nominated Upper House grafted on the Constitution of the colony, it will be found, as the hon. member for Sussex has said, that it will not be very easy to get rid of it. It is very hard to get any public body to admit that it is useless—a mere excrescence on the body politic, and we should find it very hard indeed, I'm thinking, to induce this body of nominee gentlemen to commit political suicide, at the dictates of what may be considered a rival body. As I have already said, I am not much afraid that the nominated

Upper House at the first going off would not be everything possibly we could wish, because the members of it would be chosen by a totally disinterested party, the Governor, who, under Responsible Government, would not have that active voice in the politics of the community that he has now; and no doubt he would choose the best men, and choose them on their merits and for no other reason. But, afterwards, it must be remembered these members of a nominated Upper House will be chosen by the Ministry of the day, and that Ministry of the day will no doubt select those men whom they think will strengthen their power and increase their majority, and (as it were) work or play into their hands. It has been asserted, inside and outside this House, that a nominated Upper Chamber embodies within it the very essence of the principle of election; it is said that it is the elect of the elected, the argument being that its members are chosen by the Ministers who have themselves been chosen or elected by the people. But I think there is a great flaw in that argument. A nominated Upper House is not the result of the election of the elected in its broad and proper sense; it is simply the election of a present or accidental majority of the elected. It must be remembered that although the Ministry of the day nominate these members, simply because they happen to be then in power, there may be, and there is almost sure to be, an influential and possibly numerous minority who, having had no voice in the election of that Ministry cannot possibly be said to have had any voice in the selection of their nominees, and in this way the principle contended for is based on erroneous premises. This influential minority, though debarred from having any voice or influence in the selection of these Ministerial nominees, would be as much the elected of the people as the majority who happened to be in power were; therefore it is not correct to say that a nominated House consists of the elect of the elect of the people. They are the elect of a passing majority, which may be a majority to-day, and perhaps to-morrow or a week hence may be a minority. Again, sir, we must not lose sight of the object or purpose of an Upper House, which is, to act as a check or a

curb upon hasty and immature legislation, to watch the current of events and see that no passing bubble of political opinion, blown to the surface perhaps by some exciting incident of the hour, is allowed to influence legislation, and to give rise to measures which perhaps their very authors in their cooler moments and upon more matured deliberation would regret. On the other hand, it must be remembered that there may be many measures passed by the Lower House which, although representing the matured opinion of the people, an Upper House might be inclined to reject—possibly some piece of class legislation affecting themselves—and as the members were nominees of the Crown and in no way responsible to the people, they would not give way to any pressure, and the deliberate wishes of the people of the colony might in this way be thwarted by a body of men over whom they had no control. I believe I am right in saying that it is the wish of some hon. members that these men should be appointed for life. In that case, more than ever, we should have in the Upper House a body of men who felt that they were entirely independent of public opinion, and who if they chose might defy the public and their opinion. Furthermore, I have in mind, sir, the necessity for affording adequate protection to the interests of the scattered population of the country districts; and it is here, I think, that the excellence and superiority of the principle of an elected Upper House comes clearly in. We should have the colony divided into districts or provinces, each of which would send its own representatives, two or more, into the Upper House, notwithstanding the smallness of its population numerically; and in this way we should not have thinly-populated country districts swamped by a mere numerical majority. Each district would have an equal voice with the other in the House; and it strikes me that a House so elected would be the best safeguard that country constituencies and country interests could have to protect them, in the event of the Lower House, which, I take it, would consist largely of town members, passing some measure inimical to the interests of the rural community. I think the value of an elected representative Upper House, in such an

emergency as that, becomes apparent at once. For these reasons, sir, I think—if it is only a question of waiting a week or two to enable us possibly to have an elected Upper House—it would appear very unseemly in us not to wait and see what this amendment may do for us. There is another principle involved in this bill, with regard to which I wish to make a few remarks, as the representative of a Northern district, and that is the portion of the bill referring to the money vote for natives. I am quite prepared to accept this proposal as regards the management of the aboriginal population, and yield to the Secretary of State upon that point. I believe if this native business is left to the control of a board such as the present board it will be under the control of a very good body of men; but there is one point I certainly disagree with in this bill, and that is the clause which requires that £5,000 a year shall be paid out of the revenue for native purposes, and which provides that as the population of the colony increases (the white population) and the revenue increases, this vote for the natives shall increase proportionately. That appears to me to be altogether a mistake, for we may take it that as time advances and the white population increases, as we hope it may, the native population will decrease; and this arrangement appears to me “putting the cart before the horse.” There is another blot I think in this clause of the bill. It provides that “if in any year the whole of the said annual sum shall not be expended, the unexpended balance thereof shall be retained by the board.” This board may find they do not require all this £5,000 (or it may be a larger sum), yet according to this clause the board would retain the money, year after year, or they would have to spend it whether it was wanted or not. There was no provision made that any unexpended portion of the money was to revert to the revenue. The board must spend the money—it might be £10,000 a year—whether there was any necessity for it or not, and whether there were any natives left to spend it upon. I suppose if the board cannot get rid of it in any other way they must throw it at the natives. Whether it is possible to have this part of the clause altered I cannot say, but I think it would be a good thing

if it could be amended in this respect. With reference to the suffrage, I am sorry to say I cannot agree with the hon. member for Sussex. I do not object to a widening of the franchise, but I do object to the principle of lowering it, below its present level. I think, however, it may fairly be widened in the direction of giving some influential and respectable classes of the community, who are now excluded, an opportunity of coming in. I think a lodgers' franchise might be introduced, and that it would be just and fair to an important section of the community. But as for lowering the household franchise below £10 a year in a colony like this, I think it is absurd. I say this—and I say it openly and publicly; I do not care how it may affect public opinion or public feeling outside—I say that in a new country like this, where every man who wishes to work may earn good wages, and, if industrious and economical, may in a year or two have a decent house to live in,—any man who is not a householder to the extent of £10 a year in a country like this is not worth any consideration at all in a matter like this. A man like that is not worthy of a vote; I call such a man a worthless object who has no business in a new colony like this, and ought to be relegated to some other clime altogether. To say to me, sir,—or to enunciate it as a principle—that these ne'er-do-well, useless, lazy men, who cannot, or who will not, after a few years labor, accumulate enough to warrant them in paying £10 a year rent, should have the same voice in the councils of the nation as the good, honest, industrious citizen, who manages under the same circumstances to amass a little property, is to me a doctrine of political economy that I have not yet been able to appreciate. Therefore, sir, while I should be in favor of a widening of the franchise, I should certainly not be inclined to lower it.

**THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest):** Sir—I have listened with great attention to the remarks of my hon. colleague, and also to the hon. members for Sussex and for the North; and the observations I am now about to make will be with reference to the amendment, which I think is the question now before the House, rather than to the provisions of the bill itself.

All the colonial constitutions of the Empire have followed more or less strictly on the lines and the model of the constitution of the old country. In the old country we have the Sovereign, the House of Lords, and the House of Commons; and I think these three institutions are reproduced in all the colonies of the Empire,—the Governor representing the Crown, the Legislative Council representing the House of Lords, and the Legislative Assembly representing the House of Commons. Under Responsible Government, we have the Upper House or Legislative Council exercising the functions of the House of Lords, while the Lower House, or Legislative Assembly, the popular chamber, exercises the rights and powers of the House of Commons. But the question we have now more particularly before us is the constitution of our proposed Upper Chamber—whether it is to be elected or whether it is to be nominated. With reference to this subject I may be permitted to quote from a work of great authority, as to the constitutional purposes for which an Upper House is intended. Mr. Todd, in his work on Parliamentary Government in the British Colonies, says: "Whether constituted by nomination or election, the Upper House in every British colony is established for the sole purpose of fulfilling therein the legislative functions of the House of Lords, whilst the Lower House exercises within the same sphere the rights and powers of the House of Commons." "It is therefore most desirable that, in general, persons should be chosen as members of an Upper Legislative Chamber who already possess some measure of Parliamentary experience and ability, besides being otherwise qualified for such honorable service." Now, sir, with regard to this question of whether the Upper House should be elected or nominated, there is not much difficulty in arriving at the conclusion which is, at first sight, the most popular. People naturally say, "We prefer having our Upper House elected; we shall have more voice in it; it is more to our liking to have members chosen by ourselves." That, I think, sums up the popular argument on the subject. It is the argument used by people, very often, who have not given much thought to the matter, or considered

it very closely; and I think I may safely say it is the argument that has suggested itself, in the first instance, to most of the members I see around me. The principle of election is thought to be more democratic, to be more radical, than that of nomination; and that, sir, I think is why it is more to the liking of a great many people. But we must remember that, although this principle of election may be fascinating to us when first presented to the view, we never dream of applying it practically to all our public institutions, political, judicial, or governmental. If this elective principle which is so fascinating is also so good in all cases, how is it that we do not elect our judges, our magistrates, and all officials of the Government, as I believe is done in some parts of the world? In none of the colonies of the British Empire, however, have we got that length in carrying this fascinating principle to its logical conclusion. But if this principle of election is the right one, we ought at any rate to carry it so far as the appointment of all officers of the Government, all officers of the Judiciary, all officers of the Army and Navy, and all magisterial appointments. It is just as reasonable to my mind to contend that those who aspire to these high and responsible public offices should be elected as to contend that the members of the Upper House of Parliament should be elected. I must here, sir, take a strong objection to the hon. member for Sussex's definition of the principle of nomination, as provided for in this bill. One would think from what the hon. and learned member said that the members of this Upper House would be nominated by the Ministry of the day, just as their whim or fancy prompted them; that these Ministers would have a free hand in the nomination of members, and that they would be responsible to no one for their action. But I think, sir, that is not the case. A Prime Minister nominating members to a seat in the Upper House, is responsible to Parliament and responsible to the country. He cannot do what he likes. He is a constitutional minister, under constitutional Government, and not an irresponsible agent. He must have regard to the necessities of his party, but he must have regard also to the interests of the country, or else he will have to pay for it, by the forfeiture of

his place. A Prime Minister under Responsible Government has other powers equally important as this. He is not charged with the duty alone of nominating members of the Upper House; he has other responsibilities equally serious, and other appointments equally important to make. Is he not entrusted with the power of nominating the Judges and the magistrates of the land? Surely if you can trust him to appoint a judge, in whose hands the life and property of the community to a great extent is placed, you can also trust him to appoint a member of the Upper House. In this, I say, he is not a free agent, and the system of nomination contemplated by this bill is not the free and easy system that the hon. member for Sussex would lead us to believe. In exercising this power of nomination a Prime Minister is exercising a power for which he is responsible to Parliament and responsible to the country. I notice that Lord Knutsford, in one of his despatches on Responsible Government, dealing with this question of nomination, says this—and I think every hon. member should carefully weigh his words—the Secretary of State, replying to the resolutions of this House passed last year, says this: "It is worthy of notice that none of the three colonies which possess a nominated Council have taken any measures to change it for an elective body, and the working of these Councils has stood the test of thirty years experience." I think, sir, this remark, which we all know to be true, is deserving of great weight and consideration at the hands of the members of this House. Lord Knutsford, as we all know, was referring to the three great colonies of New South Wales, Queensland, and New Zealand. Do hon. members desire another conspicuous example of the success of the working of this principle? Let them look to the Senate of the United States of America, which I believe is generally regarded as being one of the most competent, most learned, and most sagacious legislative bodies in the world. Even in that great democratic country the principle of popular election is not adopted as regards the constitution of the Senate. The members are not elected by the people; they are elected by the Legislatures of the different states. How is it that they have

not gone in for popular election for their Senate in America, if it is all its advocates represent it to be? The fact remains that they have not done so, and the fact also remains that the Senate of that great country has in no way suffered thereby, either in popular respect, in usefulness, or in a capacity for legislation. An elected Upper House, too, I submit would either represent class interests—it would represent wealth and property, and therefore a special class—or, on the other hand, it would simply be a reflex of the Lower House. If the property qualification of its members were low, and the franchise correspondingly low, we should have the same class of men in the two Houses; and we should have two Houses elected on nearly the same franchise, and with nearly the same qualification for its members, sitting in judgment upon one another, both elected by the country, both representing the country, or claiming to do so, and both considering their own views were paramount, and views that ought to prevail. It is well known to every hon. member who has watched political events in the other Australian colonies that in those colonies possessing an elected Upper House—in Victoria, South Australia, and Tasmania—those elected Upper Houses have insisted that, having been elected by the people, they possess all the rights and privileges of the popular chamber; and, instead of being guided in their procedure by that of the House of Lords, they maintain they possess the rights and functions of the House of Commons. I mention this to show the result of having two elected chambers, each claiming to represent the people. All of us are aware of the friction that has occurred between the two Houses in South Australia, Tasmania, and notably in Victoria, where the Legislative Council has insisted upon exercising co-ordinate rights—even to the right of dealing with money bills—with the rights and privileges of the Assembly. The same state of things would probably occur here, and we might find this elected Upper House, which some hon. members are so anxious for, a terrible nuisance rather than otherwise. I find on reference to the authority I have already quoted that, some ten years ago, in 1878, a proposal was made in New Zealand to change the constitution of the Upper

House in that colony from a nominated to an elective chamber. The Ministers of the day, however, disapproved of the scheme, and the Attorney General said he was opposed to an elected Upper House, and believed that it would become the "greatest curse to their constitution"; that he had always thought that "by having a nominated Legislative Council, and by having the number of its members unlimited, there was always an available power under the Constitution Act, which would prevent a dead-lock," and that "without such a power collisions would always occur," as they saw in the other colonies. The result of the debate in New Zealand was that the proposal was negatived, and the nominative principle maintained. Let us now glance at those colonies where the Upper House is nominated. I think it is only reasonable that a small community like this, entering upon an important change of this kind, should look to the teachings and experiences of its more prosperous neighbors in this matter, and not only to the experience of our neighbors but also to the teaching and experience of other portions of the Empire. Let us take Canada, with its 5,000,000 inhabitants, and its several Provinces, with their separate Legislatures; we find the nominated principle obtaining there, the members of the Senate being appointed for life. New Zealand, again, with its three quarter of a million population has a nominated Upper House, and the members are appointed for life. Go to New South Wales, the parent colony, with its million and a-half of inhabitants; there, too, they have a nominated Upper House. Queensland, again, with a population of half a million, possesses a nominated Legislative Council. In all these great colonies the members of the Upper House are nominated for life. In New South Wales, as my hon. colleague the Colonial Secretary has told us, they commenced with a limit of membership to five years, but, after the first Council, it was never followed up, and from that day to this the principle of life nomination has prevailed. And I would point out that this principle of life membership reduces largely the power of Ministries to make appointments to the Upper House for party purposes. It is often said that a Governor under constitutional Government is a mere orna-

ment, that he has simply to do what he is told by the Ministry of the day, and that he has nothing to say to nominations to seats in the Upper House—that the Ministry does all that, and that the Governor is powerless in the matter. I think hon. members will find that is very wide of the mark. In January, 1865, Mr. Martin, the then Prime Minister of New South Wales, urged upon the Governor of that colony the expediency of appointing two additional members to the Legislative Council; but the Governor declined to sanction the proceeding, on the ground that it was at variance with an implied understanding in regard to such appointments, which, he said, ought only to be made for the convenience of legislation, and not in order to strengthen a party. This led to the resignation of the Ministry; but the Secretary of State expressed his approval of the Governor's conduct. There are many other cases on record in which Governors have refused point blank to appoint members to the Upper House on the recommendation of the Prime Minister, and, as a rule, the action of the Governor has been approved by the people and by the Secretary of State. Therefore it is idle to say that a Prime Minister has altogether a free hand in these appointments. There is another very important matter I should like to bring before hon. members, and that is, that in all these colonies I have referred to—Canada, New Zealand, New South Wales, and Queensland, where they have nominated Upper Houses—there has never been any desire on the part of the people to alter the constitution of those Houses. In New South Wales, in 1876 a motion in favor of changing the Upper House from a nominated to an elective chamber was negatived by a majority of 33 to 5; and, as hon. members are aware, the Upper House in the mother colony continues to be nominated by the Crown. In Victoria, in 1879, Sir Graham Berry (then Mr. Berry) introduced a Government measure to reform the constitution of that colony, and he proposed a gradual substitution of the nominee element in the Upper House in place of the present elective body. [Mr. RICHARDSON: So that he might have more control over it.] The bill did not have the necessary majority in the Lower House on its third reading, and it was withdrawn. But the

number who voted in favor of the introduction of the nominative principle was only one short of the absolute majority required by statute to alter the constitution. So that, while the attempt made in New South Wales to substitute an elected Upper House for a nominated one was vetoed by the overwhelming majority of 33 to 5, the attempt made in Victoria to substitute a nominated Upper House for an elected one only lacked being successful by one vote. Sir George Bowen, who was then Governor of the colony, and whom many of us know as a Governor who has had a very large colonial experience, having successively administered the Governments of Queensland, New Zealand, and Victoria,—Sir George Bowen said “he was of opinion that the adoption of the nominative principle, with certain restrictions and safeguards, would ultimately be accepted in Victoria, as the best practicable escape from past difficulties and dangers. A nominated Chamber would never claim to be a second House of Commons, but would naturally imitate the wisdom and forbearance of the House of Lords, in its attitude towards, and transactions with, the other House of the Imperial Parliament.” I may add that Sir George Bowen's convictions on this subject were the result of long experience in colonial Governments, and they were confirmed by his belief that in colonies possessing a nominated Upper House, there had never been any serious collisions between the two chambers. I have heard it said that a nominated Upper House is generally weak, and does not show that spirit of independence which an elected Upper Chamber does, because the members, it is said, are very much under the control of the Minister who appoints them. I have pointed out, I think, that this argument has very little force where the nomination is for life. In Canada, I am told, the Senate, or Upper House, have repeatedly exhibited a too independent spirit,—so much so that the expediency of curbing their powers, in respect to financial questions, was mooted some years ago, by the Opposition party. There is another question that some hon. members have referred to, and that is the difficulty of changing the Constitution, if, in some years to come, we find that the Constitution we are about to adopt does not work well;

and one hon. member, the hon. member for the North, said that an Upper House, once appointed under this system of nomination, would not consent to be abolished. No body of men, it is argued, will consent to commit political suicide. But I would ask the hon. member if he can point to any instance in which a Lower House, representing the people, or with a mandate from the people, has asked an Upper House to change its constitution. [Mr. RICHARDSON: New South Wales, referred to by the hon. gentleman himself.] It was once tried in New South Wales, but not with anything like success, the numbers in the division being, as I have said, 33 to 5. Therefore it is useless to contend that an Upper House would necessarily place any obstacles in the way of its reconstruction, if the voice of the country demanded it. Sir, there is one curious feature in connection with the cry for an elected Upper House in this colony. One would expect that the prime movers in what appears at first sight a democratic movement would be those amongst us whose political views are in favor of democratic institutions; but what are the facts? The movement in favor of an elected as against a nominated Upper Chamber here is led and supported by what I may call the ultra-conservatives, in this House. They are afraid that a nominated Upper House would be too democratic, too radical. This does seem to me a little extraordinary. But there is the fact: the prime movers in this agitation for an elected Upper Chamber are not those with liberal or radical tendencies. So much, sir, for the elective and nominative principle. I now come to the amendment of the hon. and learned member for Sussex, who asks us to refer this matter again to Lord Knutsford, and tell him we won't have this new Constitution in the way he wishes us to have it. Last year, as we all know, a unanimous resolution was passed by this Council (in which, however, the members of this bench took no part) and forwarded to the Secretary of State, saying we desired to have an elected Upper House. What was the reply? The reply was that the Secretary of State would be prepared to introduce a Bill into the Imperial Parliament granting us a constitution, so long as certain main principles were preserved, and one of those main principles insisted upon by

Lord Knutsford was that the Upper House should be nominated. We must remember who Lord Knutsford is. He is Secretary of State for the Colonies, and Secretary of State in a Conservative Ministry. I do not think it is reasonable to suppose that he wants to foist on this country any very democratic, or radical, or revolutionary measure. It is more likely, I should think, that his desire would be in favor of conservatism, if anything. I know that those of our own ultra-conservatives, who are urging us to insist upon an elected Upper House, and nothing else, think that an elected Upper House is the more conservative measure; and that therefore what a Conservative Secretary of State, in a Conservative Ministry, urges upon us, is a dangerous, a democratic, radical, and revolutionary measure. It is difficult to reconcile these conclusions, and I certainly do not agree with them. The hon. member for Sussex said he was surprised that the Colonial Office should seek to thwart our wishes in the matter of this Constitution, and asked why did they not do so with the other colonies, when they first sought Responsible Government? My reply to that is—the Colonial Office has had thirty years experience in the working of elected Upper Houses since then. They have seen it at work in Victoria and other colonies, and they have also seen the nominative principle at work in Australia and other parts of the world, and they are better able now to judge of the merits of the two. I think myself that great consideration is due in a matter of this sort to the opinions expressed by an authority like the Colonial Office, after thirty years of experience in watching the result of the working of Australian constitutions. They have had experience in the working of these constitutions not only in these colonies, but all over the Empire. And what may I ask has been the experience of myself and of the members of this House? Our experience has been limited to the narrow confines of our own colony, and the political movements of a population numbering 40,000, all told, men, women, and children. Can we compare for one moment our own experience with that of the Colonial Office in a question like this, a scientific question I may call it, for I submit that the question of the

proper working of constitutional machinery, and the adaptability of that machinery for the work it has to perform, is a scientific question. I think we must be careful not to ignore the advice given, after great consideration, by such an authority as the Colonial Office on this matter. Their experience is not limited to Victoria, or Tasmania, or New South Wales, or any other particular colony; their experience has been gained from observing and watching the working of constitutions of all kinds—some of them that members of this House, until perhaps they recently looked the matter up, had never even heard of. Their experience is spread over a long period, and it embraces the various constitutions of the numerous colonies which they have to deal with, all over the world. It does appear to me somewhat strange that hon. members of this House should get up, and contest in very strong terms the deliberate opinion of the accumulated experience of the Colonial Office in a question of this kind. We have been offered a good Constitution, and we only have to say that we accept it; and we shall get it, and in a very short time, too. But, because some rather plausible arguments have been used by a few persons whom I must call the ultra-conservatives, though in my opinion they are acting more like Radicals, we are asked to reject what is offered to us in all good faith, and so put the matter off for an indefinite time. Nominated Upper Houses, as I have said, have worked well in the great and flourishing colonies of Canada, New South Wales, New Zealand, and Queensland; and I think if the principle works well in these thriving communities, comprising millions of people, it may very fairly be expected to work well here. If it is good enough for Canada, if it is good enough for New South Wales, and Queensland, and good enough for New Zealand, I venture to think it should prove good enough for Western Australia. I urge upon members not to throw away this chance. I believe—and I say it with all sincerity—that a nominated Upper House, selected as is proposed in this bill, would give us the services of fifteen of the very best men in this colony; and many of these men are men who would not enter upon the strife and turmoil, and all the unpleasantness of a

contested election. I think, sir, it behoves us to be most careful in this matter, and not place ourselves in opposition, and bring ourselves into conflict, with an authority which I must say I at any rate consider very superior to ourselves in this matter. I say again, let us frankly accept what has been generously offered to us. One thing is very certain,—without the support of the Secretary of State—and I don't mind what members may say, they may talk as much as they like about our right, our inherent right, as British subjects, to this and to that—one thing is certain, and I think most members will agree with in me this: that, without the support and approval of the Secretary of State this Constitution Bill will never pass through the House of Commons. Are we then to jeopardise this bill by further delay? I believe myself that had it not been for two or three persons in this colony, newspaper writers and others—mostly newspaper writers—we should never have had this opposition to a nominated Upper House. I know that in 1874 a bill passed through this House very similar to the one we are now considering, and in that bill provision was made for a nominated Upper House, and I am not aware of any particular opposition having been offered to it at that time. I say, sir, that all this hue and cry about an elected Upper House is a cry got up by a very few persons; the country at large does not care about the question at all. The country cannot be expected to understand it—it is an abstruse scientific question, dealing with the theory of constitutions—and I would say so in the face of the whole country, if I had the opportunity. This question of the nominative or elective principle, in its application to Upper Houses, is not a matter which the country, at the present time, is in a position to form an opinion on, and to contest the opinions, gained by a long experience, of the Colonial Office, and the distinguished statesman at the head of it. All the colony wants is to have Responsible Government as soon as possible, so that the people may manage their own affairs; and I am perfectly certain that the majority of the people of this colony—who are pretty sensible people in their way—would be quite content to live under a constitution similar to that which they know millions of their

own race are living under, and thriving under, in the great colonies of Canada, New Zealand, New South Wales, and Queensland.

**MR. HENSMAN:** Sir—The question we are debating to-night is one we cannot decide in this House; it must go to the people of the colony to decide what shall be the main features of this Constitution Act. Therefore, however interesting it may be to us to debate this question, it is simply a debate, and can lead to nothing practical at this moment, in the shape of the production of an Act of Council. But it seems to me, sir, that the remarks which may be made by members of this House on this occasion may possibly be of some value to those who read these debates—I don't know how many there are, but we will assume there are some persons who do read the debates of this House. With regard to most hon. members, I believe we have already, on a former occasion, expressed our views on the main features which we desire to see embodied in the Constitution Act. It may be that circumstances have arisen since which may have induced some hon. members to change their minds upon some of these points; but, as a rule, we are now I think but repeating what we said a little more than a year ago; and that being so, I shall be very short in the remarks I propose to make this evening. With regard to what has been said as to its being desirable we should at once accept the Secretary of State's suggestions, I venture to differ from that altogether. The hon. gentleman who last spoke asked us not to "throw away our chance," and he asked us to take what was "generously offered" to us. I think these expressions are absolutely and completely inapplicable to the present occasion. Sir, it is not a "chance" we are seeking to grasp at; it is our right by law and by statute. It is not a "generous offer" on the part of the Secretary of State. The Secretary of State is seeking to take away from us something which is really, and ought to be, ours of right and by statute law. With regard to the right of this colony to have self-government as a statutory right as well as one which falls naturally to us from our being subjects of Great Britain, I think we only have to turn to the preamble of this bill to prove what I have said. This Act commences by reciting

the Imperial Act passed for the purpose of enabling the Legislative Council of this colony and of the other Australian colonies to establish (instead of the present Legislative Council) "a Council and a House of Representatives, or other separate Legislative Houses, to consist of such members to be appointed or elected by such persons and in such manner as by such Act or Acts should be determined" at the time being. That establishes three propositions. First, that by the Imperial Act in question it is provided that the Legislative Council of this colony for the time being—and in the other Australian colonies they have all availed themselves of the right—shall have power to establish Responsible Government (for that is the plain meaning of it). Secondly, it gives us the right to have two Houses, to be "appointed or elected"—observe the expression—in such manner as this Council may think fit—subject of course to the assent of the Crown, as all Acts of Council are subject to the assent of the Crown, for no Act can be passed by any Council without the assent of the Crown, strange though the proposal may appear. This Imperial Act, then, as I have said, gives us, secondly, the right to appoint or to elect two Houses, as this Council may desire. That establishes our right to have the two branches of the Legislature elected. Thirdly, having such powers and functions as the present Council is vested with, we have power to legislate, in this or any other direction, for all the inhabitants of the colony—there is no restriction as to boundaries or parallels of latitude. That establishes the third proposition. Therefore it is our statutory right—not a generous gift, but our statutory right to pass an Act to establish two Houses, appointed or elected as we may think fit or desire, and it is our statutory right to legislate for the whole colony, and to make this Constitution Bill apply to the whole colony, if we think proper. [The Commissioner of Crown Lands: It won't become law, then.] Nothing becomes law until it has the assent of the Crown; but, when Parliament gives power to colonial Councils to pass an Act, I should like to know whether the Crown will refuse it, or why the Crown should refuse it. [Mr. BURN: It won't do it.] Of course it won't do it.

It is long ago since the Crown first had that power. It is not a capricious power vested in the Sovereign; it is a power that is now exercised subject to the advice of the Cabinet, which represents the people for the time being. Therefore, sir, it is our right by statute, as it was the right of the other colonies, to have our two Houses, if we are going to have two, either elected or nominated, in such manner as this Council may desire. It is always satisfactory—although perhaps not always very important—to have some great authority at your back; and I am glad, sir, that in a proposition which I ventured to support in this House some time ago I have at my back, on this question of one or two Houses, the enormous experience—I am now using the words of my hon. friend, the Commissioner of Crown Lands—the enormous experience of the Colonial Office, on this (I think my hon. friend called it) scientific question—a question on which common people are not competent to form an opinion. I am sure my hon. friend is too logical to accept the Secretary of State's dictum on one thing, and drop him in another. The Secretary of State, sir, suggested we should only have one House in this colony—and let me remind hon. members that we are now in a difficulty as to this question of a nominated or an elected Upper House that would never have arisen if they had accepted that suggestion of the Secretary of State. That suggestion was not made by a Liberal or Radical Minister, but by a Conservative Minister; and I may be allowed to remind the House that I took that view long before it was put forward by the Secretary of State, as hon. members are aware. That suggestion which I put forward as to a single Chamber has perhaps not been treated with quite so much contempt by some members of this House and persons outside as it would have been if it had not been backed by a Conservative Secretary of State, who has this enormous experience we have just heard of. [THE COMMISSIONER OF CROWN LANDS: The Colonial Office, I said]. I have not heard any distinction made between them. It is the Secretary of State who has sent out this suggestion, and, although my hon. friend may use another term, it means pretty much the same thing; we

all know that. Besides being backed by that authority, sir, I am still in some hope that the people of this colony, when they come to consider this question, and to return members who will have to pass this bill and make it an Act, will yet consider whether they will not return men who will vote for one Chamber not because—I should not think for a moment it would be because that proposal was supported by a Conservative Secretary of State or by any other Secretary of State, merely; but because, as it seems to me, there are such strong and good reasons for its support. In the first place—and I am only just going to touch upon the subject—in the first place, see the difficulty we have now in getting even seventeen elected members. We can hardly get them at all from the districts which they represent; many of them—most of them, I may say—reside in these central parts, away from the places they represent, and seventeen is all we now muster. It is proposed to have two Houses, of not less than 45 members—more than double the present number. What will be the result? I think the Secretary of State, whether he has had “enormous experience” or not or whether this is a “scientific” subject or not, showed a good deal of common sense when he suggested that we should be satisfied with one House to begin with. Taking a lower ground, look at the extra expense of two Houses, with their two sets of officers, and double expenditure all round. Again, is there not likely to be less friction in one chamber than in two. This House as now constituted has been at work since 1870, and it is a chamber composed at the present time of seventeen elected members and nine nominated (including official) members. Here then we get two orders of men, sitting together, and, on the whole, I think the result has not been unsatisfactory. There is at times a little friction, but we reason together, we argue together, and we divide if necessary: and we frequently find members of the Government bench (when the question is not a Government measure) taking opposite and independent views, and we find nominated and elected members voting together, or going into different lobbies as the case may be; and matters work smoothly. With two Houses what

do you get? If it is a weak Upper House it is bound to give way to the popular Chamber—and we hear that these nominated Upper Houses are always judicious enough to follow the example of the House of Lords, and give way whenever a little pressure is brought to bear upon them. In the hour of strain they are bound to give way. What, then, is the use of them? It does seem to me absurd that 30 active, energetic, vigorous—morally and intellectually vigorous—men, elected by the people, should be attempted to be tampered with by 15 nominated individuals, or any other number of nominated individuals. All I can say is, they will not carry their point eventually against an elected House, consisting of the people's representatives. They are bound to give way. The will of the people must ultimately prevail; and this weak nominated Upper House, although it may be capable of producing a good deal of friction, and to that extent disturb the action of the Constitutional system, must sooner or later go to the wall. If you have an elected Upper House, you may get a stronger body, in the sense of possessing more calibre and intellect; but suppose they come into collision with the Lower House—which of the two is to give way? If neither is prepared to give way—and, we may be sure, the more popular and numerically stronger House will not give way—we have a deadlock. So, there it is. If you have a weak Upper House, it is overpowered; if you have a strong one, you get collisions and deadlocks. It has been said, or suggested, that, in the event of a deadlock, the two Houses should sit together, and endeavor to arrange their differences. There you have it at once. That is what I want from the first. Let them always sit two together, and so prevent deadlocks. Consider how much more reasonable it is for members to sit together—even if you have two orders—in one room, reasoning with each other, and influencing one another, and eventually convincing one another. If you have them in two separate rooms, the probability is that, in case of a dispute, you will find one set of men hardening the other set in its convictions, and becoming inflamed in its opposition to the other. Therefore, sir, not only on the ground of the small-

ness of our population and the extra number of members required under the new Constitution, do I think that a single chamber would answer better than two, but also because I feel that it would work so much easier and so much better; and I hope that the people of this colony, when the matter is placed before them, will, in spite of all that is said to the contrary by some persons, who would have us believe that there is nothing to be said on the other side—I hope that the people of this colony, when the time comes, will vote for men who will be in favor of one chamber; and, whether you have one order of men or two, as we have at present, that they will sit together in one House, as we have been sitting here for the last eighteen years. It will be no innovation. On the other hand it *will* be an innovation in this colony if we separate the two orders into two chambers. But, with regard to this question of the constitution of our new Parliament, namely, whether we have one order or two orders—I should myself be quite satisfied with one set of men alone, representing the people direct—I think, sir, it is probable, or at all events not improbable, that the views I have put forward may not be carried in the next Council, and that it may be considered desirable to have what I may call two orders or two classes of representatives, one representing the people, and the other representing landed, or vested, or propertied interests. I suggest, sir, that these two orders should sit together and vote together in one House, and that the first order—that is, those directly representing the people—should consist of about 20 in number; and that the second order representing the minority, or vested and landed interests, should consist of say 10 in number, representing the five districts into which it is proposed to divide the colony, each district returning two members, instead of three as proposed in this bill. We should then have a Legislature consisting of 30 men; and I ask would not thirty be much nearer the number of men we are likely to get, who will be prepared to come forward, and give up their time and their talents to the work of legislation, and who will be able to do so without making that sacrifice which they can ill afford, by attending for a considerable period every year, to

the proceedings and deliberations of Parliament. With regard to the qualification of those who should elect the representatives of the people, my own view is in favor of manhood suffrage. It is many years ago since I was a member of what was called the Reform League, in England. At that time manhood suffrage was considered a very advanced idea—almost a revolutionary idea; but many of us joined the League and advocated it, because we knew that first we would have to ask for more than we were likely to get. The agitation was followed by the introduction of household suffrage and by a lodger's franchise, and the time is coming when I hope to see what is called manhood suffrage adopted. The reason I suggest manhood suffrage here is that there are many men, miners and others, in this colony who, though not householders, are yet entitled to representation. There are also lodgers. There are many men, for instance, up at Jarrahdale—about 200 I believe—living in small tenements, paying nominal or perhaps no rent at all, being workmen on the company's estate. Why should not these people have a vote? With regard to the qualification of electors, then, I think we should adopt—as I believe has been done in nearly every one of the other colonies, as regards their Lower Houses—manhood suffrage. I would have no property qualification for voters returning the "first order" of representatives. But, with regard to the "second order"—which, as I said, should consist of ten members, representing five electoral districts, sitting with the direct representatives of the people—with regard to this "order," inasmuch as it is suggested that they should represent property and vested interests—I do not myself say that we want separate representation for property, but I think many people are in favor of it, and that view may possibly prevail—with regard to this "order," I would suggest that the qualification of voters should remain as at present, a £10 household suffrage, or possession of an estate of the value of £100. Having now given my humble but at the same time earnest, and not ill-considered—I mean not hastily considered—views on that point, I desire, sir, to say a word upon the question of the qualification of

members, whether we have two orders, either sitting in one House or two, and whether either of them should be nominated. I have heard it said this evening that those who support an elected Upper House or order of men here are "ultra-Conservatives." Certainly I do not think that anyone will apply that observation to my political views; if they do, they are very much mistaken. The Commissioner of Crown Lands who made that observation as to the principal supporters of an elected Upper House—that they are the ultra-Conservatives—seemed to me rather to cut the ground from under his foot, because in the same breath he told us that the Secretary of State, who is a Conservative Minister of a Conservative Cabinet, has advocated a nominated Upper House. However, it appears that the Conservatives in this colony support the principle of election, and the Conservative Secretary of State in England supports the principle of nomination. That would make it appear to me that Conservative principles are very elastic principles, and are liable to change according to latitude and longitude. Still if the Conservatives here are in favor of an elected Upper House, I cannot see why Lord Knutsford, who is a respectable Conservative, should recommend a nominated Upper House. Passing away from that, I submit, sir, that a nominated legislative body at the present day would be an anachronism. It would be out of date. We have passed away from all that sort of thing. It is an exploded idea. There are some, I know, who never pass away from their early ideas; they like to cherish them to the last. They do not like to be deprived of them. They remind one of what Charles Lamb once said to an old maid who was trying to persuade him that there was no place of perpetual punishment hereafter, "Oh, madam, pray don't deprive me of my only terror."

"Let laws, and learning, yea, let commerce die,  
But, oh, preserve our old nobility."

Unfortunately we have no "old nobility" here. We have a certain number of old gentlemen, and some of them have very conservative and noble instincts; but to attempt to set them up as a poor imitation of the House of Lords would be simply grotesque. I am aware that in the other colonies they have done so. I

believe that the object originally contemplated in the institution of an Upper Chamber, of Crown nominees, was the creation of a body which might fulfil in the colonies the functions of the House of Lords. Experience has shown that the idea, however attractive in theory, has not been realised in practice; and the result has not been very encouraging, I believe. The colonial production is a very poor substitute for the Imperial model. But imitation is a habit of mankind, and there may have been some excuse in years gone by for setting up this pinchbeck imitation of the House of Lords, as a colonial institution. But the world is growing older, sir, and, it is hoped, wiser; and, no doubt, in time, we shall get rid of these old superstitions. For myself, I shall strongly object to a nominated Upper House. These Upper Houses, I believe, are put forward by their apologists as a sort of check upon democratic ascendancy, and as acting as a sort of drag upon the people. It does seem to me strange that we should like to appoint somebody else to be a drag upon us; but it seems we do. I cannot help thinking it would be better, if necessary, that we should be able to put on the drag ourselves—to go forward when we want, and to stop when we want. In England, where ancestral associations give the force of law to usages, I can quite understand this tolerance of an hereditary chamber, as a kind of conservative drag; but you find they are always wise enough to give way, though very often too late, and when a thing has gone farther than it would have gone, but for their own opposition; because people generally when they are opposed get their back up, and when you dam up a stream for a time, it is very apt to sweep away the obstruction rather vigorously. But, will this nominated House that we have heard spoken of be a drag upon the people, or will it simply be an additional power in the hands of the Ministry of the day? The tendency will be to put in that Upper House, whenever vacancies occur—and power is given in this bill to increase the number of members—those who will support the Ministry of the day; and, so far from being a drag, it will rather accelerate the speed and celerity with which a Ministry may be able to pass any measure of

their own. It will be observed that the words of the clause are “not being fewer than 15”—there is no limit as to any greater number, and there is nothing in the bill to prevent a Ministry to swamp this Upper House with its supporters, and so carry any measure, however unpopular, once it passes the Lower House. Any Cabinet can do this under the bill. They must start with not fewer than 15, and thereafter (the clause goes on) “may, from time to time, in like manner, summon to the Legislative Council, such other persons as he shall think fit.” [THE COMMISSIONER OF CROWN LANDS: That’s the Governor in Council, not the Cabinet.] I don’t understand the hon. gentleman. I understand that under Responsible Government the “Governor in Council” is the Cabinet. [THE COMMISSIONER OF CROWN LANDS: I have pointed out that Governors of colonies have frequently refused to nominate, when requested to do so by the Ministry.] Then they won’t do it many more times: we shall find that Cabinets won’t stand it. The time has gone by, I believe, when the people of these colonies will tolerate these things: they will not stand to have their will, or the will of the Cabinet that represents them, thwarted by one individual, from the Colonial Office. I think we have lately seen an instance of this in Queensland, where the Cabinet showed themselves determined to have their way and exercise their rights. [THE COMMISSIONER OF CROWN LANDS: Another matter altogether.] Is it suggested that the Governor himself appoints these members? [THE COMMISSIONER OF CROWN LANDS: Certainly not.] Then it is the Governor in Council, acting upon the advice of his Ministry or Cabinet. If a Governor chooses to say “I will not take your advice,” they will resign and another set of Ministers will come in; and when they make these appointments they will not be the Governor’s appointments but the appointments of the Cabinet. And as they can appoint “not fewer than fifteen,” but more if they like, what is to prevent their putting in five or a dozen more when it suits them? I do not say it will be done, but it may be done. This bill, it strikes me, has not been very carefully drafted; for, I notice that while clause 6 provides that the

number of members to be summoned to the Upper House shall not be fewer than fifteen at first, but that more may be appointed from time to time afterwards, the 7th clause contains a provision only for the retirement of the 15 members "first summoned under this Act." There may be 20 members, but there is no provision here for the retirement of more than the original number, 15. That clause gives great power to the Ministry of the day, to strengthen their hands. There is such a thing as making a tacit arrangement with members to retire, so as to make room for more pliant supporters. Such a thing has been known; and a nominated House of this description may give rise to all these difficulties and abuses. You may have men nominated who will, if necessary, be prepared to resign their seats, so that others may be put in, in their place, who will strengthen the hands of the Ministry of the day. It has been said "Why not have a nominated Upper House to start with?" If it is found not to answer, if it is not acceptable to the country afterwards, this nominated Upper House may be asked to efface itself, to commit the "happy despatch" (as it is sometimes called). I do not think it is at all likely they will do it. I am aware that in clause 61 it is provided that the Legislature of the colony shall have full power at any time to vary the provisions of this bill; and it has been thrown out that this power should induce us to accept this nominated Upper House for the present, because the Constitution may be altered hereafter. But see by whom. It must be an absolute majority of both Houses—not of the Lower Chamber alone, but the "concurrence of an absolute majority of the whole number of members for the time being of the Legislative Council"—that is, the Upper House itself, which it is proposed to abolish—and of the Legislative Assembly respectively. Therefore, before these fifteen doomed gentlemen commit self-destruction, there must at least be eight of them who will agree to do so. Let us put ourselves in their position. Would we be likely to do so? Why should we start in this way? Why should we build up a constitution on the chance of getting eight estimable gentlemen at some future time to say "We will cease to exist." It is a very

unpleasant thing for a man to say, "I believe I am a nuisance, and therefore I will be put out of your way." It is almost too much to expect such a very patriotic thing; and if people are foolish and obstructive, possibly they won't be patriotic. Very likely these obstructive individuals—more likely than not—will say "Here we are, and here we will stop." It has been said, if we cannot trust a Prime Minister to appoint members of an Upper House how can we trust him to nominate Judges of the Supreme Court? I can answer that in a moment. It is not a very difficult thing for a Minister, who perhaps has some point of commercial or fiscal policy which he is desirous of carrying out—it is not a difficult thing for that Minister, a business man himself probably, to look round and find men who will represent his views on such matters, and he may make good use of his acquaintances in this way. But can it be said so of the appointment of a Judge? Will he not be bound to select for the Judicial Bench men at any rate of legal training and technical qualifications, which fit them for the discharge of their judicial duties? There is no inducement or temptation for a Ministry to appoint a Judge, in the hope of increasing their majority. They cannot pack the Bench with any number of Judges they may think fit, as they can pack this nominated Upper House, for party purposes of their own. Therefore, that is no argument at all. Again, it is said, look at the Senate of the United States, a most intelligent and sedate body. No doubt the Senate of the United States is a great and illustrious body, and it is not elected direct by the people. But it is elected by the various local Legislatures of the country, who are elected by the people, all over the States; therefore it comes very near to a direct representation of the people. It is not a nominated body in the sense that is suggested here. It is the result of the deliberate choice of the people on the spot, through their own representatives, who know the qualities of the men they want, to represent them. Sir, having now briefly dealt with this question, I will close with this remark,—I hope none of the people of this colony will look upon this matter as a mere matter of generosity on the part of the

Secretary of State, or as a chance to be caught at. I hope they will view it as they ought to view it, as their right; and that when they come to consider whom they will support, when this bill is placed before them, that they will seriously consider whether we may not advantageously start with one chamber instead of two; and that in electing their representatives at the coming election they will insist upon having members who will also vote for a wide franchise—if not manhood suffrage, then such a franchise as will admit lodgers, possessors of miners' rights, and others who are qualified to have a vote. I hope, above all, they will never consent to allowing a number of persons to sit and legislate for them who are nominated by the Crown, by the Governor in Council, or anybody else. I see the learned Attorney General in his place. We have had as an argument in favor of a nominated rather than an elected Upper House the statement or the dogmatic assertion of the Attorney General of New Zealand, who said that an elected Upper House would prove a curse to the people. We have not had the reasons which induced that learned gentleman, whoever he was, to make such a statement. [THE COMMISSIONER OF CROWN LANDS: I can do so, if you like.] I am afraid it is too late now. But as it has come before us as the opinion of an Attorney General, I hope, sir, we may have the benefit of the opinion of our own Attorney General before the debate closes, which, no doubt, will have equal weight with the opinion of the other learned gentleman referred to. But I hope if he does give us the benefit of his opinion on this subject he will give us his reasons as well. Sir, I pass away now to another point in this bill—the property qualification of members; and I hope that here, too, the people will insist upon doing away with the property qualification. There is no property qualification of members in England, and why should there be here? How does the possession of property, if a man is otherwise fit for a representative, make him any better, or how does the non-possession of it make him any worse, intellectually or morally? It is a mere accident or incident attaching to the man. If a man is a worthy man, how do you make him more worthy by providing that he

shall possess £500 or £1,000? I trust, sir, that in our future Constitution there will be no property qualification. Another thing I object to in this bill is the five years' Parliament, and I hope we shall have shorter Parliaments than that. I think the shorter the better. I would not have them elected for longer than three years, at the utmost. I think five years is too long altogether to give a man *carte blanche* to do pretty well what he likes. Some members may not care for public opinion or for their constituents, and I think the oftener they have to return to their constituents the better. I think a man should face his constituents, not when he is in, so much as when he when he wants to get in, and I hope we shall have shorter Parliaments than at present. Another point—I know there will be many members who will be shocked at the idea, but it prevails in some of the other colonies—another point I am in favor of is the payment to members of the expenses they are out of pocket, when attending Parliament. In Victoria, I think, the honorarium is £300 a year; but I would not have it so high here, nor anything beyond sufficient to cover the actual expenses of a member while attending to his Parliamentary duties. It is said that payment of members gives rise to a class of professional politicians, who get into Parliament just for the sake of the money, and nothing else. I would not give a chance to such a class to arise here, but I do think that a member who comes from a distance, and gives up his time and business, and who must necessarily be a loser by being taken from his work—and every good man is a working man in this colony, in some way or the other—I think such a man should be recompensed, and ought not to be out of pocket. I think members ought to be paid what I may call their actual travelling expenses, but not exceeding a certain sum—say £50, or whatever may be decided upon. See how difficult it is to get members to come up now. I think we ought to attempt to encourage people to come up from the country districts which they represent; I should much prefer to see every district, as far as possible, represented in the Legislature by men residing in the district, and who know its wants thoroughly and practically. Is it not more likely that we should encourage

such men to come forward, if we took away what is at present a tax upon the pockets of members who come up to Perth from a distance? Sir, I have now touched lightly upon the main points of this bill, with one exception; and that is a point that has not been touched upon by anyone yet in the course of this debate. I refer to the schedules of the bill. I notice that it is proposed that the salary of the Governor, for the future, shall be £4,000 a year, instead of £3,000. I do not believe the people will have that, for this reason: the Governor's salary up to a few years ago was £2,500, but it was raised recently to £3,000; and the Governor now, under the present Constitution has a great deal to do, whereas the Governor in future will have comparatively very little to do. I think the less he has to do the better. Under Responsible Government he will only have to be a sort of figure-head for the vessel of State. He will be the social head no doubt, and will occasionally have to exercise his judgment in other important matters. But, practically, a Governor will have comparatively very little to do, under the new Constitution, and I think it is out of place altogether, at the present stage of the colony, to raise the salary of the Governor. Then we have a schedule of Ministerial salaries. As to these, all I can say is, they are put upon a most moderate scale, because they have been put down at about one-seventh of the salary of the Governor, that is to say, the men who will have to do the real work are to receive about one-seventh of the man who has to look on. The Premier, I observe, is to get £200 extra, but the other Ministers are only to get £600 each. Some people, looking at this enormous discrepancy in a common sense way, will probably say: "Here is the Governor, sent out from the Colonial Office for a few years, who is here to-day and gone to-morrow, and who is not selected by us"—perhaps the time may come when the Governors of these colonies will be selected by the people themselves, or at any rate the people will have a voice in the matter; "here is a Governor sent out by the Colonial Office—he may be a politician, or he may be an impecunious peer who wants to get a respectable position, or he may be any one of the numerous place-hunters who

are to be found on the look out for a situation,—shall we submit to paying this man seven times as much as we are paying the hard-working men of our own colony, who are doing the real work for us?" I do not think they will. But they will have to look to this themselves; they will have to bear it in mind as one of the questions to be considered when they are electing their members to represent them in the next Council. Now we come to the retiring pensions. I shall speak plainly here. No one has touched this pension list yet in the course of this debate, and perhaps it may be said that the question is not now before us. But I intend to speak out plainly myself—I may not have another opportunity of doing so, this session at any rate. When speaking on this subject before, I used the expression that it seemed to me this pension list was simply grotesque; and I have not altered that view. It is said the Colonial Secretary is to have a retiring allowance of £800 a year. That is actually his present pay, according to the statute, although he gets an extra £100 by a vote of this House. Why should the Colonial Secretary be allowed a pension equal to his full salary? Why should he retire from the service, almost in the prime of life, and continue to receive full pay? Was the like ever suggested before, in any other colony? I don't know; but I very much doubt it, whether anywhere else a public officer at his time of life, a healthy, active, vigorous time of life, should retire from the service upon full salary. Next we have the Attorney General, who is down for £500. Now I don't wish to refer to the Attorney General; it is painful to have to speak of these things, and I shall leave it to the people of the colony themselves and their representatives to deal with the learned Attorney General's claims. I pass on to the Commissioner of Crown Lands, who is down for £550. I am sure that hon. gentleman will pardon me—it is not because I do not respect him; I have the greatest regard for him, and I believe the administration of his department is as good as we could possibly expect or wish for; at the same time, I must say I think we should not accede to any of these pensions, unless they are reduced

at least two-thirds. I think that would be liberal enough. I think, sir, I have touched as slightly upon this matter as it was necessary to give one's views. These questions of salaries and pensions are very important questions to this colony at the present time, and we must not seek to get away from them simply because they are a delicate subject, and one upon which we would rather not speak. We are bound to speak of it, and we cannot shelve it and do our duty to the country. Sir, I have now ventured to give my views, briefly—though longer than I had intended—upon the leading features of this Constitution Bill. Whether the bill is now read a second time or not, or what becomes of it, seems to me immaterial, because the present Council cannot pass the bill. I do not mean to say it has not the physical power (so to speak) to send it through all its stages; but it would be a monstrous thing to do, and against all precedence. The people of the colony must have an opportunity of expressing their opinions upon all these questions. Therefore, it is immaterial whether it passes its second reading now or not. All we have to do now is to express our opinions upon it, and endeavor to do so as clearly as we can, so that our views may be known—not for the purpose of passing the bill, but in order it may be to assist in the formation of public opinion. We must leave it to the country to send such men to the next Council as will represent their views on this great question, if they possibly can; and, in exercising that right, I hope they will not lose sight of the leading features, such as the question of one or two Houses; the question of nomination; the question of the franchise—whether it should not include every honest man in the community, apart from the possession of property; and the question of the qualification of their members—whether they should not have the right to elect any man in whom they have confidence, however poor he may be in the goods of this world. These appear to me to be the main points for the consideration of the people of this colony at the coming election. I join, sir, heartily with every member of the House who has spoken on this subject, in trusting that the time may speedily come when we

may enter upon this new form of Government. I trust we shall not be prepared to give up any matter which we may deem of importance or a question of principle, for the sake of trying to get this Act passed a few months sooner. It is much more easy to arrange in the first instance the lines of the Constitution that we think is desirable for the colony, than, for the sake of expediency, to take anything which may be thrust upon us now, and have to alter it afterwards. Whatever form of Constitution we get, it may not affect, to a very great extent perhaps at first, the prosperity and happiness of the people; that must depend upon the people themselves. But, at all events, we shall have arrived at a stage when we shall have got rid of those shackles which now encumber us and prevent our progress; and I trust that day may be very near at hand.

CAPTAIN FAWCETT said he wished to reiterate what had been said by the hon. member for Greenough, in the able speech they had just listened to. He intended to vote for an elected Upper Chamber, if there were to be two Houses; but he would prefer a single Chamber, where the two parties could sit together, and join in the debates, as at present. He fancied that in this colony, with its few inhabitants, so scattered, it would be very difficult to obtain 45 members. Besides, it would be a very heavy expense to have two Chambers, and it would be much better to have all the members, whether nominated or elected, sitting together, as the nominated and elected members did now, giving each other the benefit of their respective views. He did not hold at all with being dictated to by the Secretary of State that we must have a nominated Upper Chamber, and he hoped the House would not submit to it. We were not all fools. We ought to know what was best for us, and if we couldn't get it, he would say: let us have a sort of revolution, and show the Secretary of State that we mean to have an elected Upper House, or none at all. Why should we, for the sake of a few months, rush this bill through, and accept anything which the Secretary of State chose to thrust down our throats, just for the sake of getting Responsible Government? It would be better to make a stand, and say we

would have what we thought was right and desirable for us; and not accept anything pitched at us, simply because the Governor had said to the Secretary of State: "Anything will do for these people; anything is good enough for these people." The elected members of that House were elected by the people, and he should say, "Let us make the Secretary of State listen to us; let us show him that anything is not good enough for us." Would their constituents not like them to say so? He was sure they would. Instead of that, we were having this bill thrust upon us, simply because the Governor had led the Secretary of State to believe, "Oh, anything will do for poor little Western Australia; give it to them." If he had his way, we would not abide by it. He would say, No. He would raise his voice against it, and vote for an elected Upper Chamber. When it came to voting the salaries and pensions, he should raise his voice there, too. He thought it was an exorbitant price for a colony to pay that was so much in debt, these retiring allowances. They were out of all proportion to the sums which the colony could afford; and, if there was going to be any opposition to them, he for one would certainly join in it. He also agreed with the hon. member for Greenough that £4,000 a year was altogether too high a salary for the Governor. The expenses of a Governor in this colony were not very great—nothing like what they were in the other colonies. It would be time enough to increase the Governor's salary when the colony had a large population, something like the other colonies.

MR. SCOTT: I do not intend, sir, to say many words on this occasion, as I do not think we are called upon to deal with the whole bill, but the amendment. Of course I can understand why the hon. member for Greenough—whom we shall unfortunately lose in a few days—should consider it necessary to address himself to the whole bill, as he may not have another opportunity of doing so. But it seems to me that the sole question before us now is the amendment of the hon. member for Sussex, and no doubt the principle involved in this amendment is a very important one—the most important one, it appears to me, placed before us in this bill, or, at all events, the most im-

portant question at issue before this House and the Secretary of State. I think members will all agree with me in this: that although the Secretary of State or the Colonial Office may be said to possess an immense experience, they seem to shift about, with all their experience, in a most uncomfortable way. In the first instance we have the Secretary of State advocating a single Chamber, and then he goes away from that, and acknowledges that a second Chamber may be very desirable and that we can have one; but that second Chamber, he says, must be a nominated Chamber, and not an elected one, as you desire. It will be observed that he gives no reason whatever for this, except that our population is a small one. But, for my part, I fail to see how the smallness of our number can affect the principle involved, or why it should be allowed to come between the question of a nominated or an elected Upper House. I do not understand it. If the colony possessed four times the present population, but still widely scattered as at present, with different interests to be guarded, I should say the advisability of having an Upper House elected would still remain. It is not a question to my mind of population, but a question of protecting the varied interests of the widely scattered districts of the colony. What we want an elected Upper House for is so that every interest may as far as possible be represented in the Legislature, and not simply the interests of the majority. It must be borne in mind that a Ministry may exist in office for a very long time, and if they had a working majority in the Lower House, and could also command a majority in the Upper House by nominating their own supporters, they would be complete masters of the situation. The Upper House would be no check upon them. On the other hand with a strong Upper House, elected by the people, we should have some check upon the actions of the Ministry and their supporters. It might be that the Lower House had some pet theory or class measure which they wanted to impose upon the community, which would not be acceptable to them, and especially to the country districts; and an elected Upper House, consisting of members elected by the country, would be able to interpose, and, probably, when

the majority in the Lower House came to consider the question further, they might be prepared to give way. . They would at any rate have a further opportunity for consideration. For these reasons, and the reasons expressed here months ago when this question was under discussion, I must say that I feel myself obliged to vote for the amendment, and that we should still further press this matter upon the Secretary of State, and have his fiat before proceeding any further with the bill. I hope myself that the Secretary of State will yield to us on this point, and give us what—as the hon. member for the Greenough has pointed out—is clearly our right, within the four corners of this very bill—the right of saying whether we shall have an elected or a nominated Upper House. I do not see any reason why we should hurry this bill through its second reading. It must go to the country, and it will be for the public to say whether they intend to have an elected Upper House or a nominated one, or whether they will have an Upper House at all. They may choose to have a single Chamber, and there may be reasons why a single Chamber would work very well. Still we have the example of all the other colonies in favor of two Houses, and I believe the example of every other British colony possessing constitutional Government. The Commissioner of Crown Lands told us that where they have a nominated Upper House, they have never all this time changed it for an elected one. But the hon. gentleman himself gave us an instance where they attempted to do so, but they did not succeed; and if we were once to accept a nominated Upper Chamber I am afraid we should never find ourselves in a position to substitute an elected House in lieu of it. The Commissioner of Crown Lands did not tell us, I think, of any colony that had changed an elected Upper House for a nominated one. Wherever you go in the other colonies you will always find it admitted that an elected Upper Chamber is an active and vigorous body, whereas nominated Upper Houses are usually passive, and indifferent, and possess but little real power. I think myself we should find it so; and, as we have already declared in favor of an elected Upper House, I do think we ought to make one more effort. at any

rate, to obtain what we want, and what we believe will be best for the colony. If the Secretary of State finds us ready to give way at once on this most important point, he will not, I should think, be inclined to place much weight upon the strength of our convictions. We have already given way on what I consider very important points, and if we yield up this, too, without a struggle, I think we shall have ourselves to blame in the matter.

SIR T. COCKBURN-CAMPBELL : Sir—I don't wish to detain the House very long, but I have a few remarks to make on the amendment. I agree with the hon. member who has last spoken that that amendment is really the only question we have to decide now; we shall have a further opportunity of speaking to the general principles of the bill. The hon. member for the Greenough, who, I understand, is shortly about to leave us, I suppose on account of that reason, has gone into the main principles of the bill at great length. I will not follow him in his remarks at the present time, though I should like, on a future occasion, to do so. But, with regard to this question of whether we should endeavor to obtain the alternative of an elected or a nominated Upper House, I wish to say two or three words. Of course, if we were the very ignorant men that the Commissioner of Crown Lands puts us down for—if we were as ignorant as he tells us he is himself, and knew nothing about the working of colonial constitutions, if we had nothing to guide us beyond the experience of our own little handful of 40,000 souls—I agree with him it would be better for us to accept without demur what the Colonial Office offered us. But in any case I cannot agree with him that Lord Knutsford is a good authority—and I think the hon. gentleman himself, in the course of his remarks, intimated very clearly that the Secretary of State did not know much about it. [THE COMMISSIONER OF CROWN LANDS: I made no such remark.] I did not say that the hon. gentleman made the remark; but the effect of some of his observations seemed to indicate that Lord Knutsford knew very little about the matter. However, I do not pretend to be an authority myself, but I have paid a considerable amount of attention

for some years past—it has been my duty, as I consider it to be the duty of all who take any considerable interest in political matters, to watch the working and the effect of the different Parliamentary systems in the other colonies. Not only have I watched, but I have listened to all I could hear from those who had had anything to do with the working of them; and I think there cannot be the slightest doubt—in fact I have not heard it questioned by anybody who has given the matter any consideration—that in these Australian colonies, public life is healthier and stronger in those communities having an elected Upper House than in those having a nominated Upper House. Besides that curious fact, elected Upper Houses are much more popular with the public, and receive much more consideration from them. Sir, it is not the mere fact—and I defy anyone to say it is not the fact—it is not the mere fact of these elected Upper Houses being much more useful, much more active, and much more popular than nominated Upper Houses, that makes me wish to see Western Australia adopt this elective principle, but because of those special reasons to which one hon. member, the member for the North, has already alluded to. Hon. members will recollect that in some of his earlier despatches on this subject the Secretary of State referred to the danger of handing the future destinies of this enormous territory to a small population of 40,000 persons, nearly the whole of whom are congregated in one portion of that territory, and chiefly in these central towns; and no doubt there is a great deal in that argument. There can be no doubt, if we have the same experience as the other colonies, that, under Responsible Government, the Assembly or Lower House will eventually represent mere numbers—will represent, that is to say, overwhelmingly, a centralised numerical majority. There can be no doubt, too, that the Ministries will reflect the views of that centralised majority, which will be the most powerful and the most capable of making themselves heard. The consequence will be—must necessarily be—that central interests will prevail over other interests, and that the outlying portions of the colony will be at a serious disadvantage in this respect as compared

with the more central parts. In that case I fail to see how these outlying districts are to be protected, and their interests fairly guarded, if we have a nominated Upper House. We see this in Queensland, where—as would be the case here—central influences are dominant in politics, and what is the result? The Upper House, being nominated by Ministers, reflects their policy, and neglects the interests of the outlying districts, and these districts, naturally enough, resent this neglect, and a feeling of indignation and discontent is aroused, with the consequence, as we all know, that for some time past the Northern portion of that colony has been agitating for separation. I am very much afraid, sir, that under similar conditions, the result would be the same here. In fact, I do not think there is any colony of the group that more than our own requires an Upper House having strength enough to do its duty faithfully, as the guardian of the interests of the minority, and of the outlying districts. In no other colony can there be a greater temptation for the people, and those who represent them in the Lower House, to act occasionally in a manner antagonistic to the general welfare, simply because, as the Secretary of State pointed out, the bulk of the population is concentrated in one small corner of the colony. That, sir, is why I wish to see a form of Government adopted here which will afford us some assurance that there shall be some check exercised over this predominating central influence. That is why I am anxious that the Upper House should be elected by provincial electorates, so that country interests may not be left to the mercy of mere concentrated numbers. What I wish to see here is a form of Government under which the people generally shall be, or are likely to be contented, and under which they are likely to have that faith in the Constitution, and that respect for it, which we desire they should. On these grounds—both on the main and general ground that elected Upper Houses are more active, more popular and more influential than nominated Houses, and also on the special ground that, under some such system, provincial electorates would have the opportunity of electing members who would properly guard the interests of

our outlying districts—on these grounds, sir, I wish to see an endeavor made to obtain the sanction of the Secretary of State to our having an elected Upper House, or at any rate that the alternative may be submitted to the country at the approaching general election. I fail to see anything in Lord Knutsford's despatches to lead us to conclude that he will not agree to our representations, if they are given the weight of the unanimous voice of this House, backed as we hope they may be by the Governor. All that the Secretary of State says is that he hopes the main principles of the bill will be maintained, but that if we wish to see them altered in any material respect, he should like to be furnished with our observations and reasons. [The Commissioner of Crown Lands: Not by telegraph.] No; my own idea was that we should frame resolutions in which we might give our reasons for desiring this change in the bill, and that these should have been transmitted to the Secretary of State; and I feel satisfied myself he would have yielded. That might have involved a delay of a few months; and the next best course for us appears to me to be that now proposed. If we accept this bill as it stands, with its nominated Upper House—after declaring our intention to have nothing but an elected Upper House—if we accept this proposal now without an ultimate appeal to the Secretary of State, Lord Knutsford may well conclude that our political convictions are not very strong, and that we are liable to be blown about by every wind of political doctrine.

Mr. MARMION moved the adjournment of the debate.

Agreed to.

Debate adjourned, until Monday, 5th November.

#### CHURCH OF ENGLAND TRUSTEES BILL: REPORT OF SELECT COMMITTEE.

##### POINT OF ORDER.

Mr. PARKER said he had the report ready of the select committee on the Church of England Trustees Bill, but he observed that the date on the Notice Paper for the committee to report was not until next Monday (Nov. 5). He was

not aware, however, that the Standing Orders precluded him from bringing up the report before the date fixed; and, if he was not out of order, he would move that it be now received.

The SPEAKER said the hon. member had spoken to him privately on the subject, and he then told the hon. member that he did not think there was any objection to his bringing up the report at an earlier date. But he confessed he had not then looked at the Standing Orders on the subject. He had done so since, and he now thought it was not competent for the hon. member to bring up the report of a select committee before the date fixed by the House for bringing it up. The rule was this: "That, on the appointment of every committee, a day shall be fixed for the reporting of their proceedings to the Council, and on such day"—that was, the day fixed—"the final report of the committee shall be brought up by the chairman, unless further time shall have been previously moved for and granted." In the present case no further time had been moved for nor granted; therefore, he thought the proper day for bringing up the report was the day fixed for that purpose. That was how he read it; but, of course, his ruling was subject to the ulterior decision of the House.

Mr. BURT: I think, sir, the object of that rule is in order to limit the time for bringing up a report, so that you cannot go beyond it without further time being granted. I apprehend it does not prevent a report being brought up at an earlier date.

The SPEAKER: What interpretation does the hon. and learned member put upon the words "and on such day"—that is, the day fixed for reporting?

Mr. BURT: It does not say, sir, that the report may not be brought up at any earlier date. I presume the object of the rule is to make select committees bring up their reports at the time fixed for doing so, and not go beyond it; otherwise they might keep back their report indefinitely.

Mr. PARKER: Unless further time be moved for and granted, the limit of the time originally fixed is the date then appointed. But, so far as I can see, there is nothing to prevent a committee bringing up its report earlier. It is not a matter of any great importance, so far

as this bill is concerned, but might be of importance in other bills.

**THE SPEAKER:** It is a general Parliamentary rule that when a thing is ordered to be done on such a day, it cannot be brought forward at an earlier day. The object is obvious—to prevent surprise. It may not be a matter of importance in this case, as the hon. member says; but it may in others.

**MR. BURT:** Supposing the House should not be sitting on the day fixed for bringing up a report, you could never bring it up, if there was no other time for doing so except the date originally fixed.

**MR. PARKER:** I can understand the Parliamentary rule that no motion shall be brought forward on a date earlier than that fixed for it, so that the House may not be taken by surprise. But there is no question of surprise in bringing up the report of a select committee.

**MR. RANDELL:** I cannot agree with the hon. member. I think there is a reason why a report should not be brought up before its time. Notice of motion for the adoption of the report at the next sitting may be given, and carried, and the report may be adopted, before some members who may be interested—but who may not anticipate that the report would be brought up until the day fixed, and who may therefore be absent—had an opportunity of discussing it. I think, myself, with all due deference to the legal opinions expressed that the Standing Order is as clear as possibly can be, and I believe your Honor has ruled on former occasions that a report cannot be brought up before the day fixed for bringing it up.

**THE ATTORNEY GENERAL (Hon. C. N. Warton)** said he apprehended the true meaning of the words "on such day," in the Standing Order, taken in conjunction with the context, was "by such day"—that was to say, the committee were bound to be ready with their report by the time fixed, or, if not, they should get further time.

**MR. BURT** said he remembered, on one occasion, a day being appointed to bring up a select committee's report, and it transpired that the day fixed would be subsequent to the prorogation, and the committee brought up their report on an earlier date.

**THE SPEAKER** said he certainly should not permit any action to be taken with regard to a report brought up before the day fixed, which, undoubtedly, would be contrary to Parliamentary practice. Of course if the House wished this particular report to be brought in, he had no objection. At the same time he must say the rule appeared to him very plain,—that a report could not be presented before the day appointed by the House for its presentation.

**MR. PARKER** said, under the circumstances, he would defer bringing up the report until Monday.

The House adjourned at ten minutes to eleven o'clock, p.m.

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## LEGISLATIVE COUNCIL,

*Monday, 5th November, 1888.*

Appropriation Bill (Supplementary), 1888: third reading.—Constitution Bill: second reading; adjourned debate.—Beverley-Albany Railway Syndicate: Relaxation of conditions of Land selection—Clause 48 of Land Regulations and Mineral Discoveries—Adjournment.

**THE SPEAKER** took the Chair at seven o'clock, p.m.

**PRAYERS.**

**APPROPRIATION BILL (SUPPLEMENTARY), 1888.**

Read a third time and passed.

**CONSTITUTION BILL.**

**ADJOURNED DEBATE, MOTION FOR SECOND READING.**

On the order of the day for the resumption of the debate on the second reading of the Constitution Bill,

**MR. MARMION** said: Sir—It is not necessary for me to detain the House long. Hon. members who have already