

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Assembly**

**WEDNESDAY, 15 JULY 1874**

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# LEGISLATIVE ASSEMBLY.

Wednesday, 15 July, 1874.

Privilege. — Free Conference.—Mrs. Sophia Morphy. — Working Miners of Stanthorpe.—Suspension of Standing Orders.—Crown Lands Sales Bill.

## PRIVILEGE.

Mr. MILES rose to a question of privilege. In the few words which he was reported by the *Courier* to have said on the previous day, in reference to the proposed free conference between the two branches of the Legislature, he was made to say that, if the Land Bill had been carried through in the shape in which it was introduced by the honorable Minister for Lands, it would have been one of the finest Bills ever brought into that House. Now, what he did say was, that if honorable members on his side of the House had supported the Bill, it would have been one of the finest Bills for the squatters that had ever been introduced. There was merely the omission of three words, "for the squatters," which, however, were very important, as it was well known that he had opposed the Bill from the very first day it was brought forward, because he had always looked upon it as a Bill to lock up the lands of the country. He had no doubt it was an error on the part of the reporter, and trusted it would be corrected.

The SPEAKER: What is the question of privilege.

Mr. MILES: Mis-reporting in a newspaper.

The SPEAKER: That is not a question of privilege.

Mr. BELL would then move the adjournment of the House in reference to the subject.

The SPEAKER: The honorable member is out of order; he cannot move the adjournment of the House for the purpose of correcting that which has been pronounced informal.

Mr. BELL said the honorable the Speaker could not know what he was about to move; he would move—

That this House do now adjourn for the purpose of removing what might hereafter be looked upon as a misapprehension. The honorable member for Carnarvon stated that the Bill would have been a capital Bill if it had been passed as it was at first introduced. He distinctly heard the honorable member make use of those words, and he was rather surprised at the time to hear them coming from the honorable member, as he knew that honorable member had opposed the Bill from stem to stern. He believed

the honorable member did not say what he had stated that day, but that he said what was reported; knowing the honorable member as he did, he thought there was no doubt that he meant to say what he had since explained.

Mr. MORGAN said that with all due deference to the honorable member for Carnarvon, he must say that he understood him to say what had been reported in the newspaper. Of course, the House was bound to accept the denial, but he must say that the reporter had caught the spirit of what the honorable member should have said in the interests of his constituents, when he made him state that he thought it was a most capital Bill.

Mr. PECHER had taken particular notice of the remarks of the honorable member for Carnarvon, and he must say that that honorable member, after making the statements imputed to him by the *Courier*, said, in a *sotto voce* manner, which, however, caught his ear although sitting opposite to the honorable member, that it was the finest Bill that had ever been passed "as far as regarded those honorable gentlemen," at the same time bowing in his usual polite way to the honorable members on the Opposition benches.

Mr. J. SCOTT said that the words used by the honorable member for Carnarvon were, "that if honorable members of the Opposition had supported the Bill as introduced by the Minister for Lands, it would then have been the finest Bill that had ever been passed."

Mr. MILES said he confessed that when he rose on the previous evening to make one or two remarks, he had been anxious not to detain the House, it having been agreed that they should adjourn at a certain hour. There was no mistake on his part, that he then said it was the finest Bill ever introduced for the squatters. He said so then, and would repeat it now; and if those honorable members on his side of the House had supported the honorable Minister for Lands in passing his Bill, the Government would have been condemned from one end of the country to the other, as it was a Bill to lock up the lands and to prevent settlement. If it had passed as it was introduced, the squatters would have required no compensation, as people who settled on the lands under the Bill would all have been starved out.

Mr. PALMER objected entirely to the assertion of the honorable member for Carnarvon—that if the Bill had been passed as it was originally introduced, it would have been for the benefit of the squatters. He denied *in toto* that he for one would have benefited by it. He did not think that honorable members on his side of the House should be taxed with a desire to legislate for themselves. He would not derive one penny benefit from any Land Bill; but, even supposing that was not the case, he thought they might be credited with a wish to legislate for

something more than their own pockets. He thought it was of very little moment what the honorable member's opinion was, but he (Mr. Palmer) considered that the Bill was a bad one from beginning to end, and he had always said so. But to say that his side of the House had lost anything by not supporting it was absurd; he denied such a statement *in toto*.

The motion was, by leave, withdrawn.

#### FREE CONFERENCE.

The hour named by the Legislative Council for the free conference between the two Houses on the subject of the Crown Lands Sale Bill having arrived, the names of the managers appointed by the Legislative Assembly were called over by the Clerk; and the managers proceeded to the place appointed.

The SECRETARY FOR PUBLIC LANDS said: I have to announce to the House that the members appointed by both Houses have met in free conference, and the conference was conducted on behalf of the Legislative Council by Mr. F. T. Gregory; and the members discussed the various questions referred to them.

Mr. BELL: What did you do?

The SECRETARY FOR PUBLIC LANDS: I understand from you, Mr. Speaker, that the Bill being in the other House, and the question having been referred to the conference, on the motion of the other Chamber, it is not competent for me to report to the House more than I have done.

The SPEAKER: I apprehend that as the Bill is in the other chamber it will be sent down, accompanied by the result of the conference.

#### MRS. SOPHIA MORPHY.

Mr. FRASER, pursuant to notice, moved—

That this House will, at its next meeting, resolve itself into a Committee of the Whole, to consider the petition of Mrs. Sophia Morphy.

He might remind the House that the claim for consideration on the part of Mrs. Morphy appeared to be a very feasible one. That lady had been an old and tried servant of the Government, having been something like twenty-five years in the service of the country, and had been connected, as matron, with the Immigration department, which frequently made large demands of a responsible character upon her. He might say she had never been found fault with for not discharging her duties, but had always fulfilled them in the most satisfactory manner. Mrs. Morphy was now no longer able to perform those duties, as she was advanced in years, nor was she in a position to earn her own living. Her retiring allowance amounted to only £31 13s. 4d. a-year, although she had represented to him that she was really entitled to more, as she had contributed to the Civil Service Superannuation Fund since its establishment; through the neglect, or something else, however, on the part of an officer, a large sum which she had

paid in as back payments had never been placed to her credit. Thus, she was only to receive the sum he had mentioned, which he thought honorable members would say was not sufficient to keep her as comfortable as she ought to be in her old age. She had therefore brought her claims before the House, and although he was not fond of bringing forward such matters, he believed it was a most deserving case, and he hoped that it would not share the fate of other motions of a similar character which had been brought forward during the present session.

The question was put and carried.

#### WORKING MINERS OF STANTHORPE.

Mr. MILES moved, pursuant to notice—

That the report of the Select Committee appointed to inquire into the allegations contained in the petition of the working miners of Stanthorpe and surrounding district, laid upon the table of this House on the 8th instant, be now adopted.

He trusted he would be able to prove to honorable members that the report was based upon the evidence given before that committee, and that selection 420b, on Lode Creek, which was taken up by the St. Leonard's Company, was forfeited through the balance of the purchase money not being paid on the 4th February, 1874, when it was due, and that the purchase money was not tendered until the 16th April following. It would be in the recollection of the House, that when the question was before the House on a previous occasion, he then moved for a Select Committee to inquire into the allegations made by the petitioners, and that the honorable Secretary for Lands laid very great stress upon the fact, that the selection 420b was taken up under the Crown Lands Act of 1868, which Act, whilst it gave the power of forfeiture, did not give the power to dispose of the selection. Honorable members would observe, however, that in the sixth clause of their report the committee said upon that point:—

“That, although the selection was, as at first applied for, taken up under the 32nd section of ‘*The Crown Lands Alienation Act of 1868*,’ and although that section does not distinctly provide for the disposal of forfeited selections, your Committee, taking into consideration the power given by ‘*The Mineral Lands Act of 1872*,’ and the action taken by the Secretary for Public Lands in proclaiming the selection forfeited and open to occupation under miners’ rights, are of opinion that the Secretary for Lands construed the Act of 1868, as giving him the same power as he possesses under the Act of 1872, to deal with the selection as forfeited.”

He thought that if there was any doubt on that point it would be met by the fact that the honorable Secretary for Lands caused the selection to be proclaimed forfeited about the 18th March, 1874, and to be proclaimed open for mining areas on the 27th April following. He believed that he would be

able to prove that the St. Leonard's Company had fully intended to forfeit the selection, and not to pay up the balance of the purchase money, as it would be seen by the evidence of Mr. Bruce, the company's manager, that whilst on the 14th February they had twenty-three men at work, on the 21st March they had only four men. It was very evident that during February they put on as many men as they could, in order to get out all the tin before the time for paying up the balance of the purchase money; and that looked very much as if they intended to abandon the selection. As regarded notice being given of the purchase money being due, Mr. Hume, the Commissioner, stated that it was his practice to give such notice, but that in regard to the case in question he did not do so, as the selectors received notification from Brisbane. Mr. Bruce fairly admitted that he received such notice, and, therefore, the only conclusion he (Mr. Miles) could come to was, that the company intended to forfeit the selection. It would appear from Mr. Walmesley's evidence, who was one of the miners working on the borders of the selection, that about February 11 they struck some good tin, which was running in towards the selection of the company which had been proclaimed forfeited; and from Mr. Bruce's evidence, it seemed that on the 16th April he made an application to the honorable Secretary for Lands, to be allowed to pay up the balance of the purchase money. That showed, to his mind, that it was the discovery of tin which was made by the miners, that led to that application being made. It appeared that Mr. Hume would not receive the application, but that he forwarded a copy of it to the head Lands Office. Mr. Walmesley was asked—

"10. Are you aware that this selection, 420B, was proclaimed open for miners' rights? Yes; on and after the 27th of April, 1874.

"11. It was withdrawn? Yes.

"12. Are you aware whether the Commissioner gave notice to the holders of the selection that the balance of the purchase money was not paid within the time? I am not aware that the Commissioner did.

"13. Is it usual to be done? I could not say that.

"14. Did this company continue to work the land until it was proclaimed open to miners' rights? They continued to work the land, and had a good many men on it, until about the 6th of April, 1874.

"15. *By Mr. Groom*: The company had men there? Yes.

"16. On the ground? Yes.

"17. *By the Chairman*: The company, then, did not altogether cease working it? The work was partly suspended for a time—there was only about four men at work."

It was natural to suppose that when the number of men employed on the selection was reduced from twenty to four, the tin

was nearly worked out. Mr. Walmesley was then asked—

"21. Can you give any reason why they afterwards made application to the Commissioner to receive the balance of the purchase money? Yes; because they were working on Lode Creek, and there was a creek through what is called Chinaman's Flat, a tributary of Lode Creek, and the manager sent a few men to prospect it, by what is termed among miners—to put a cut across the creek.

"22. Have you got any map that could show us the locality, so that we may the better see the bearing of your evidence? Yes. [Map produced and examined by the committee, as to the relative positions of Chinaman's Flat, and selection 420B, Lode Creek.]

"23. Can you state about what time the miners were working on this reserve, and on the road outside the St. Leonard's claim? I believe they were working about the middle of February, but I cannot say precisely the date.

"24. About what time was it the working miners discovered the lode of tin going into the selection? About the same time.

"25. And is it your opinion that the miners, having traced the lode of tin into the selection, caused the St. Leonard's Company to make application to pay up the balance of the purchase money? Yes.

"26. *By Mr. Bailey*: Is that opinion of yours based on what the working miners said? Yes; on that, and circumstances connected with it."

It appeared to him, therefore, that it was entirely owing to the labor of those men who were working under miners' rights that the St. Leonard's Company were induced to make an application to be allowed to pay up the purchase money. Then, again, as to Mr. Bruce not being aware that the money was due—he found on referring to question 9 of that gentleman's evidence—

"9. Would you inform the committee what you know of this matter in connection with the transfer of tin selection 420B, Lode Creek? Yes. We received the usual notice of the selection being approved of, and that the balance of the purchase money would be due on the 4th of February, 1874. We received this notice from Mr. Tully.

"10. That is, that the application was confirmed? Yes; was approved of, I think, is the word; and we received notice that the balance of the purchase money would be due on the 4th of February, 1874. The notice was received in February, 1873."

That showed that Mr. Bruce was perfectly aware that the money was due on the 4th February, and yet it was not paid until the 16th April. It also came out in evidence that in January the dams were flooded and rendered useless, and that they were never repaired, but the company borrowed water from the working miners—in fact, they had no intention of repairing them, as they intended to abandon the ground when their time was up. Then, again, Mr. Hume was

asked, in reference to the tendering of the purchase money—

"1. *By the Chairman*: I wish to ask you two questions, Mr. Hume, and you can, of course, answer them as you think proper. I wish to ask you if Mr. Bruce, the manager for the St. Leonard's Company, tendered to you the balance of the purchase money? He came to my office, but I do not recollect him tendering the money, though I recollect refusing to take it.

"2. Would you give your reasons for refusing it? Certainly. Because it was past the due date."

He would ask honorable members to refer to Mr. Tully's evidence on that point; that gentleman was asked—

"48. Has there ever been a case where the purchase money has been received when the land was proclaimed or about to be proclaimed, in the way you stated—or is this a solitary case of the kind? Yes.

"49. This case, as it stands, is a solitary and an extraordinary case? Yes.

"50. Don't you think then that this case establishes a dangerous precedent, and that if it is within the law for a Minister to act in this way, it gives him too much discretionary power? I do not think so, for every case must be decided on its own merits, and the Secretary for Lands must judge if its specialities be such as would justify a departure from the strict letter of the law.

"51. Did it not strike you, as Chief Commissioner of Crown Lands, as being extraordinary, that the holders of these valuable pieces of land, as they described it, should have neglected to pay the money at the proper time? It did so at first, but seeing the land was not advertised in the name of the St. Leonard's Company, the officer may have overlooked it.

"52. What authority had you to accept money from the St. Leonard's Company for land in the name of Williams and Horton? The money was credited to Williams and Horton.

"53. I think you said that the reason you thought there was some ground of mistake was, that the St. Leonard's Company did not know that the land stood in the name of Williams and Horton? I said I thought the officer might not be conversant with the ground the company possessed.

"54. Are the committee clearly to understand that this is a case *per se*? So far as I understand, it is; I do not recollect a case of the same class.

"55. *By the Chairman*: Who is the agent for Williams and Horton? I do not know who their agents are, but in town Mr. Abbott acted as agent for them, and the money was paid by the Joint Stock Bank."

There was some discrepancy between that answer and one given by Mr. Abbott, who said that he was not acting as agent for the St. Leonard's Company; it was not, however, a matter of very much importance. He believed that the Secretary for Public Lands, if he had been fully aware of the whole circumstances of the case, would not have acted as he had done; but he would like to know, if he acted like that in one case, where the line was to be drawn. The rents for mining leases were different to those under pastoral

leases, as in the latter case, if the rent was not paid at the proper time, the lessee had to pay interest. In mining leases it was important that the rents should be paid on the exact date, as otherwise a man, seeing that he could get out all the tin in a few days, might delay paying his money for those few days, get the tin out, and then abandon the ground. In the present case there was no doubt that the company thought they had worked out the tin, and that they did not intend to pay up the balance of the purchase money, because they allowed ten weeks to elapse after it was due, before they applied to be allowed to pay it. Mr. Bruce must have known perfectly well that the money was due in Brisbane, in March, and it certainly was most extraordinary that he should not have discovered that it was due until just when the working miners were going on to the selection. He thought it would have been better if the honorable Minister for Lands had made himself fully acquainted with the matter before he granted the application, as such a proceeding must have the effect of tending to discourage prospecting for minerals. He would like to know where the line was to be drawn, for, if the honorable Minister for Lands considered that he had a right to receive money ten weeks after it was due, he might just as well receive it ten months after date. The whole of the committee, with one exception, had adopted the report, and he trusted, therefore, that the House would agree to the motion. He believed that if they did not, it would cause great discontent on the tin mines, as the miners would think that the Government might act in a similarly arbitrary manner in the future.

The SECRETARY FOR PUBLIC LANDS trusted the House would not agree to the motion for adopting the report of the committee. After reading the whole of the evidence, weighing it well, and comparing one portion with another, he was quite satisfied that he had adopted the proper course, and that in adopting the report the House would be inflicting a great injustice upon a large company who had spent a great deal of money in developing the mineral resources of the colony. He would point out to the House that the facts, as stated in paragraphs 6, 8, and 9 of the report, were entirely incorrect. Had the Government done what they were there charged with, the question might have been raised as to how far they had the power to cancel such proclamation. But the honorable member, in his speech that evening, had based his arguments on another point altogether—on the supposition that the company were pushing on their men to work out the land, take all the tin they could, and then forfeit the selection. The honorable member also stated that it was upon the discovery by some working miners, who were prospecting on the border of the selection, that there was good tin running into it, that the manager of the company

tendered the purchase money, and got back the selection. He contended, however, that there was nothing in the evidence to prove that; in fact, the whole of it, with one exception, went to the contrary. Then again, there was a one-sidedness about the manner in which the examination of witnesses was conducted by the committee; for, with the exception of the honorable member for Fortitude Valley, they all tried to censure the Minister for Lands—in the case of Mr. Tully, they actually recalled that gentleman for the purpose of getting him to say that his superior officer was wrong; in fact, the manner in which the crossquestioning was carried on was most indecent. He had never seen one-sidedness so far carried out; generally care was taken to bring out facts on both sides, and it was the duty of the chairman of a committee to see that that was done. The arguments, as he had said, which were attempted to be made out, were that the company had intended to abandon their selection on the 4th February; but, he would ask, what evidence was procurable in proof of such intention; he would refer to some of the evidence. He found on reference to the pay list, that on the 21st February, they paid £277 2s. 6d. for wages, and Mr. Bruce was asked in question 28:—

"28. You say that you averaged two and a-half tons a week—during December, January, and February, were you getting that quantity? Yes; and I can show the quantity exactly by the books.

"29. Then you were getting as much tin at the latter end of the twelve months as during any previous portion of the time? Yes; but it has not been so good during the last three or four months."

Now he thought that no company would have run the risk of forfeiting such land as that for the sake of saving £60. Then Mr. Bruce was asked about the usual practice in regard to paying for the selections—

"9. Would you inform the committee what you know of this matter in connection with the transfer of tin selections 420B, Lode Creek? Yes. We received the usual notice of the selection being approved of, and that the balance of the purchase money would be due on the 4th of February, 1874. We received this notice from Mr. Tully.

"10. That is, that the application was confirmed? Yes; was approved of, I think, is the word; and we received notice that the balance of the purchase money would be due on the 4th February, 1874. The notice was received in February, 1873.

"11. The balance of the purchase money was not paid at the due date? No.

"12. You did not receive any notification afterwards informing you that, unless the money was paid up, the selection would be forfeited? No; not in this instance. I have in all others, but not in this. I have received notices both before and since for other selections."

It was very natural that he should have relied upon receiving the notice, and that he had forgotten the date when the payment was due. There was also distinct proof of the

faith Mr. Bruce had in the ground—that gentleman was asked—

"15. What is your impression as to the ground being nearly worked out?—Were you under the impression that there was still a large quantity of tin there? Yes; and I am under the impression that it will take a long time yet to work it out. I have brought a copy of my weekly reports and correspondence which will show we had no idea but that the ground would be worked for a considerable time.

"16. On what day did you tender the balance of the purchase money? On the 16th of April."

Then, in questions 43, 62, and 63:—

"You did not consider the branch creek worth working? Yes; we were looking forward to work it; but the best way to do it was to work out the main creek first, and have the benefit of it for the tailings from the branch creek.

"By Mr. Bailey: Before these claims were pegged out on this selection, did you not hear that the tin ran into the selection? Not into the selection. I knew they were getting tin near to us as far back as January.

"But though they were not getting tin there in January, were they not getting tin close to the selection in February? Yes; in February they were."

He said, so far back as January, before the date the payment was due, and also in February, he knew they were getting tin outside the selection. Then, in question 15, he was asked—

"15. What is your impression as to the ground being nearly worked out?—Were you under the impression that there was still a large quantity of tin there? Yes; and I am under the impression that it will take a long time yet to work it out. I have brought a copy of my weekly reports and correspondence, which will show that we had no idea but that the ground would be worked for a considerable time."

He maintained that Mr. Bruce offered the most valuable and reliable evidence on the subject, because, if he could show from his correspondence, prior to the forfeiture, that there was no intention on the part of the company to forfeit, that would be clear and distinct evidence; but if it said nothing about it, or if it said they intended to forfeit, it would tell the other way. But the committee did not ask for that; they actually rejected the most valuable evidence they could get, so that they had only Bruce's statement that they intended to work it—that in January they knew there was tin in it, and in February that good tin was being obtained; and, also, that in June, 1872, a man named Arbouin discovered tin there. There was, therefore, clear evidence that they intended to work it; and the statement, that the non-payment was an accidental omission, was very likely to be correct. Now, what evidence was there to the contrary? He might almost say there was not a particle. The only evidence of that nature was that of Robert William Walmesley, who said, plainly and distinctly, that the company intended to forfeit. But what proof, what

knowledge, had he of their intention? They had the evidence of Mr. Bruce to the contrary, and he was likely to know his own intentions; and Walmesley's evidence amounted to nothing. It was simply and solely hearsay, and it was flatly contradicted in some instances. He was asked—

"Then, in your opinion, it was the intention of Mr. Bruce to forfeit the selection? Yes; it is my opinion it was."

Well, it was his (the Secretary for Lands') opinion that he did not intend to forfeit, and his opinion was as good as Mr. Walmesley's, with this difference: that he was in no way interested in the matter one way or the other; he did not even know who the company were, and that made a considerable difference. But that question, like nearly the whole of the questions put, was all on one side. This witness was also asked:—

"25. And is it your opinion that the miners, having traced the lode of tin into the selection, caused the St. Leonard's Company to make application to pay up the balance of the purchase money? Yes."

"26. *By Mr. Bailey*: Is that opinion of yours based on what the working miners said? Yes; on that, and circumstances connected with it."

The first of these questions, he submitted, a witness ought never to have been asked, it was so thoroughly leading; the words were actually put into his mouth, and he very naturally answered in the affirmative. Then, his answer to the next question was simply based on hearsay, and was of no value. In the same man's evidence, for he was called a second time in order to give some second-hand hearsay evidence he had received by telegram, he said:—

"I passed the company's works before I came down here, and I can state that they had no water to wash the dirt with."

But that was only a week or ten days ago, and when the matter was in dispute and it was known that it was coming before the House. Why should the company spend money in order to carry on—why should they put up permanent works or improvements under these circumstances? But what the company did a week or a fortnight ago was no proof of what they intended to do previous to the 4th of February. Again, Walmesley was asked—

"18. Can you give any reason for the partial suspension of the work? Yes; the ground was not paying, and the working manager, Mr. Armstrong, told me and others that he thought there was something wrong, for Mr. Bruce was always hurrying him to get the creek worked out as soon as possible."

"That was before the forfeiture could take effect? Yes; that was before the balance became due."

That was all hearsay—something he had heard from Armstrong. But what did Bruce say about that matter? He was asked:—

"Did you give instructions to your overseer, about some time in January, to put on all the

men he could, in order to extract the tin as soon as possible? No; on the contrary, we dismissed the overseer for putting on more men."

That was Bruce's evidence; and yet the hearsay evidence of Armstrong was the only evidence upon which the statement that the company intended to forfeit was based. The matter came under his notice about six weeks after the money ought to have been paid, and it was accompanied by a report from the commissioner, in which it was stated that it would be a great hardship if the land were thrown open. It was also accompanied by a statement of the money that had been expended, and the valuation of the improvements, and it was pointed out that the manager believed there were good workings in the place, and that he intended to work them out. There was satisfactory evidence to his mind that it was the manager's fault—that unfortunately he made a mistake, and he did not think the company should be punished for that mistake. There had been some cases of mining selections in which the money was received after it was due; but this stood in a different position, because it had been proclaimed open for mining license, and it was the only case he was aware of in which the land was proclaimed open in that way. That was simply accounted for. Instructions were given about the 14th of February to proclaim all forfeited selections open to license, in order to allow people to go on them, but this was exceptional. It was the practice to proclaim all forfeited selections open to license, but taking the money after it was due was sometimes done. He had known it to have been done under the Pastoral Leases Act, which allowed ninety days, during which the money could be paid with a fine; and he was quite aware that there was scarcely a year passed without money being received, even after the expiration of the ninety days, although there was a special provision that in such cases the land would be forfeited. He, therefore, submitted that he simply acted in accordance with the general practice, and treated this as an exceptional case, and one in which it was proved to his satisfaction that it would be a great hardship if the property belonging to these men were forfeited. And he took this into account—that nobody could be damaged by it—by allowing these men to have the property which had been improved and partially paid for, and which they lost by accident. It was not proclaimed as forfeited but as open to mining license, on the 27th of April, and until that date arrived, the petitioners had no right whatever to it; and he maintained that he was perfectly justified in protecting the owners by taking their money when it was clear that the non-payment was an oversight on the part of the manager, and there was no evidence whatever except hearsay evidence—and that of a discharged manager—that the company had any intention to forfeit; in fact, the evidence showed the exact contrary, that

there was no such intention. The fourth clause of the report said :—

"That the selection 420B, Lode Creek, in consequence of the non-payment of the balance of the purchase money, became forfeited on the 4th February, 1874."

But it never was proclaimed as forfeited: it was proclaimed as open to selection under a miner's right. Then it said :—

"That, although the selection was, as at first applied for, taken up under the 32nd section of 'The Crown Lands Alienation Act of 1868,' and although that section does not distinctly provide for the disposal or forfeited selections, your committee, taking into consideration the power given by 'The Mineral Lands Act of 1872,' and the action taken by the Secretary for Public Lands in proclaiming the selection forfeited and open to occupation under miners' rights, are of opinion that the Secretary for Lands construed the Act of 1868, as giving him the same power as he possesses under the Act of 1872, to deal with the selection as forfeited."

Now, under the Act of 1872, the Secretary for Lands had no power whatever, and he thought the report had no business to mix up the two Acts, and say the committee ought to have been applied in place of the first. The first Act, under which this selection was taken up, said a deposit of five shillings should be paid at the time of making the application; and that the balance should be paid into the Treasury at the expiration of twelve months, on proof being given that a sum equal to £1 per acre had been expended in *bond fide* working the land. That was all it said; but the Act of 1872 provided that the money should be paid into the Treasury within twelve months, otherwise the deposit paid should be forfeited, and the land treated and considered as if no application had been made. Under the Act of 1868, in the case of conditional purchase, if the money were not paid at the due date it was lawful for the Governor in Council to proclaim the land forfeited; and he maintained that when it was proclaimed as forfeited, they could not withdraw it; and they would not attempt to do so. In cases of that kind there were two proclamations, one declaring the land forfeited, and the other throwing it open to selection; but this land was never proclaimed as forfeited, because the Act did not require it, but it was thrown open to selection under mining license. He maintained that the statement, that there was an attempt to withdraw from forfeiture land which had been proclaimed as forfeited, was untrue. There was a clear broad distinction between land which was dealt with as forfeited, and land which was proclaimed as forfeited. He thought he had a fair right to object to the animus apparently contained in a question put to Mr. Tully:—

"Has Mr. Abbott used any undue pressure to get the title deeds?"

He did not think it had any bearing on the case, and he objected to cross-examination of

that kind. After giving the matter very careful consideration, he had come to the conclusion that he had pursued the correct course, and that he would be right in taking the same course again under similar circumstances. He hoped the House would not adopt the report.

Mr. MOREHEAD said the honorable the Secretary for Lands had made a very fine speech, and had drawn a very nice distinction between a forfeited selection and a selection treated as forfeited; but the proclamation in the *Gazette* of the 28th of March last was one which, he thought, the House would not overlook, whether the distinction was a broad one or not. But, he thought, it was about as broad as the honorable the Secretary for Lands pretending that he did not know who the partners in the company were, after stating that he had read the evidence. These 420 acres were distinctly proclaimed as being forfeited. It said, "The land comprised in the forfeited mineral selections hereunder described," and "420" was amongst the number. The honorable the Secretary for Lands had been disingenuous upon the question, as he usually was upon everything he undertook, and if he had simply said that injustice had been done to the company, and said it in a few words, he would have done more by that means than he had succeeded in doing by his labored attempt to defend a very bad case. He did not believe the members of the committee had any animus against the honorable the Secretary for Lands, and he believed that that honorable member now felt in his own breast that he was wrong.

THE SECRETARY FOR PUBLIC LANDS: No; I do not.

Mr. MOREHEAD: The very fact of the honorable member saying that he did not convince him that he did; and he was certain that the honorable member was wrong by his labored attempt at a defence of his action. But if the report and the evidence had done no more good, it had the effect of showing what conflicting statements they could have from officers of that branch of the Civil Service over which the honorable the Secretary for Lands presided, and he could only fancy that they were imbued by that honorable member's spirit. They found that Mr. Tully made this assertion, with reference to the issuing of certain notices. Mr. Hume was asked :—

"16. I find in Mr. Tully's evidence the following question and answer: 'Did the selectors get any instruction from the Government that the balance of money was due at a certain date? We did not do it; and it is not the practice of the Government to notify to selectors that their balances are due; but I believe that Mr. Hume, the Mineral Land Commissioner at Stanthorpe, does so on his own responsibility.' Is that the case? It is the custom, most undoubtedly, to notify to selectors that their balance is due on a certain day, and that if it is not paid on that day the selection will be forfeited."



"17. Did you give notice in this instance to the holders or selectors? I did not. The selectors got notification from Brisbane.

"18. *By Mr. Morehead*: You know that of your own knowledge? Yes; the selectors do not deny it. They admit it."

That flatly contradicted what was stated by the Under Secretary for Lands.

The SECRETARY FOR PUBLIC LANDS: No.

Mr. MOREHEAD thought the House would bear him out that it flatly contradicted the statement of the Under Secretary. And what did they further find? That Mr. Hume produced the actual document obtained from the Land Office in Brisbane, which was in Appendix F., and was the form of notice actually sent from the Land Office here, fully bearing out the statement of the Commissioner, and he maintained that the Under Secretary, in coming forward and making such statements, acted very improperly. This gentleman also stated that there was a discretionary power given to the Minister for Lands under the 32nd clause of the Act of 1868. Mr. Hume was asked by him (Mr. Morehead):—

"24. Mr. Tully, in the course of his examination, was asked by the Chairman: 'Would you point out the clause in the Act of 1868 that gives the Minister a discretionary power?' And his answer to that was: 'I do not think I said that the Act gave the Minister a discretionary power, but that the Secretary for Lands was in the habit of exercising a discretionary power.' And I then asked him: 'Then there is no discretionary power provided by the Act?' And his answer was: 'None whatever; but the Minister is in the habit of exercising a discretion.' So you see that is the Chief Commissioner's interpretation of the clause? Yes.

"25. And you don't agree with Mr. Tully in that interpretation? You think the clause does give a discretionary power? I do, as it does not say directly to the contrary; and the other, the Mineral Lands Act, does."

At first this notable Under Secretary stated there was a discretionary power, and finally he said there was no discretionary power whatever. He had attended very carefully to the inquiry, and he could not but come to the conclusion that this land was forfeited by the St. Leonard's Company, because they believed it was worked out, and finding from the explanation of the working miners that it was good ground, they paid the money. He did not intend in any way to impute improper motives to the honorable the Secretary for Lands; he simply believed that he had acted without sufficient consideration, and that he had come to a wrong conclusion. He believed that if he had had the evidence before him, he would not have been inclined to listen to the St. Leonard's Company. He thought they would establish a most dangerous precedent if such proceedings were allowed to pass unchallenged, and in this his views were endorsed by the Under Secretary and the Commissioner for Stanthorpe, who admitted that this was *per se* an extraordinary case, such as never occurred before, and it

showed the importance of placing as little discretionary power as possible in the hands of the Secretary for Lands. He thought it would be great injustice to the working miners of Stanthorpe if they were deprived of this land, because he was satisfied that the company would never have tendered the money—made the final payment—only through the exertions of these men they discovered its value. He disclaimed anything like an animus on the part of the committee. They were actuated only by a desire to do justice, and he believed the adoption of the report would do justice to those men, who had been ill-treated, and that it would prevent the creation of a precedent which must result injuriously.

Mr. HODGKINSON said he intended to support the adoption of the report. They were told, in the first place, by the honorable the Minister for Lands, that this was a hard case; that if they sought to give this land to the petitioner, they would be doing injury to a body of men who had spent a large sum of money on the land. But if honorable members would look at the evidence, it would be seen that they spent nothing beyond the weekly expenditure for wages, and that they made no permanent improvements—nothing more than was actually required for working the ground; and he thought that one of the best proofs that they intended to abandon it was, that they let their dams go to ruin, and removed their property. He had seen a great many instances of this kind in gold mining, and he had no hesitation in saying that he felt as clear on the subject as if he had a personal knowledge of the facts, that the company held on to the ground merely with the view that if anything turned up from the exertions of these miners they would be able to raise a quibble about the forfeiture of the ground. There was another thing: at first the application was refused, but afterwards it was recognised; and, between the rejection and the acceptance, the Act of 1872 was passed; but, by some extraordinary means, the company were allowed to take up the land under the Act of 1868. He did not think it was the duty of the Minister for Lands to exercise any discretionary power with regard to mineral selections, because, although he might do what was right and just, still it would excite the suspicion of all classes of the mining community. The Act of 1872 said forfeiture should follow non-payment, but the Act of 1868 did not go to that extent; and, even if the Minister had a discretionary power, he thought it looked very bad, to say the least of it, to see that power exercised for the benefit of a foreign proprietary, at the expense of a number of the industrious miners of the colony. They had been told that the petitioner was the only man interested in the case; but he might be the representative of others. He believed that he was backed up by a large number of miners, and he (Mr. Hodgkinson)

had no hesitation in saying, that if the Government did not do justice in the case, they would be committing suicide, by dispossessing themselves of the confidence of the whole mining community of the colony; and he would support the motion to the utmost of his power.

Mr. PEECH said, in rising to speak on this subject, he must say that he did so with a great deal of grief. He had gone through the whole of the evidence very carefully; and, as he said when the honorable member for Carnarvon brought forward the motion for the appointment of the committee, he believed the committee would find a "mare's nest," he had come to the conclusion that they had discovered that peculiar zoological phenomenon. He would now inform the House the opinion he had formed from the evidence. From questions 20 and 21 of the evidence of Mr. Tully, it would be seen that in twenty or thirty cases money had been paid in after the date upon which the payments should be made. Then, in questions 39 and 50, he was asked—

"39. Have there been many cases of this character before? Not previously of this character; but where there has been no clashing of interests. Payments have been authorised to be received after the time provided by the Act, where sufficient reasons are shown to account for the omission. We are obliged to do so under the Act of 1868 continually.

"50. Don't you think then that this case establishes a dangerous precedent, and that if it is within the law for a Minister to act in this way, it gives him too much discretionary power? I do not think so, for every case must be decided on its own merits, and the Secretary for Lands must judge if its specialities be such as would justify a departure from the strict letter of the law."

Now, he took it that that House was not an executive but a legislative body, and that they had to leave it in the hands of the Executive body, who, from time to time, might have their confidence, to judge what was right and what was wrong in such cases, and in carrying on the Government of the colony. On the last occasion the matter was before the House, some unkind remarks were made respecting himself. It was said that he was acting as "buffer" to the honorable the Minister for Lands, and all he could say was that, if he was able to act as "buffer" to that honorable gentleman, he would be happy to be in that position. That honorable member had his thorough confidence, and he trusted he had the confidence of that side of the House; but if he had not, by all means let them resort to the opposite benches, and, perhaps, they would be able to find some honorable member who was better qualified to fill the position of Secretary for Lands than the honorable member who at present occupied that office, but he was afraid they would not. Mr. Tully was also asked—

"Did it not strike you, as Chief Commissioner of Crown Lands, as being extraordinary that the

holders of these valuable pieces of land, as they described it, should have neglected to pay the money at the proper time? It did so at first; but seeing the land was not advertised in the name of the St. Leonard Company, the officer may have overlooked it."

Now, honorable members would see that the matter was not advertised in the usual way, and, therefore, in all probability the gentleman in charge of the affairs of the company was misled. The next thing he came to was the letter from Mr. Hume to the Secretary for Lands, Appendix E; and he would here point out that a responsible Minister had nobody to depend upon but the officers who were under him, and if these officers were not worthy of his confidence, of course he should take measures to remove them. Mr. Hume said:—

"Referring to the petition, I draw attention to the fact that this selection was applied for under the 32nd section of '*The Crown Lands Alienation Act of 1868*;' therefore, the 20th section of '*The Mineral Lands Act*' in no way applies to it; that the men knew the land was not open to license, consequently could sustain no real damage from the action of the Government, as alleged; that the insinuation it was paid up only because the licenses had proved it to be valuable must be false, inasmuch as the balance was paid on the 15th April, whereas the claims in question were only pegged out on the 27th."

And if honorable members would take the trouble to go through the evidence as he had done, they would find that this report of Mr. Hume's was substantiated in two other places; that those persons who attempted to work the selection, as it was pretended by the petitioner, in virtue of miners' licenses, did not obtain their licenses until after the payment of the balance of the purchase money by the previous purchasers, and after the notice respecting the forfeiture had been cancelled. He now came to the evidence of Mr. Walmesley, and it seemed to him to be merely hearsay evidence, which was not reliable. Mr. Bruce was asked:—

"You did not receive any notification afterwards informing you that, unless the money was paid up, the selection would be forfeited? No; not in this instance. I have in all others, but not in this. I have received notices both before and since for other selections."

On first reading that he was rather doubtful about it himself, because it was stated that Bruce had received notice; but it appeared that the notice he received was one in the usual form when the application was accepted, twelve months before the money became due, and it was always usual towards the expiration of the twelve months to give a further notice, in order to remind the parties that the money was due; but that was not done in this case. He had taken up land in that way himself, and he knew that if he had not received a reminder in that form, he would have forgotten the date the payment was due. He would also call the attention

of the honorable member who moved the motion that this case came under the Act of 1868, and not the Act of 1872, and the Minister for Lands had a discretionary power. Mr. Hume, in his evidence, on being asked if he thought the Minister for Lands was justified in receiving the money after the date on which it was due, said he thought he was; but the report of the committee not only did not infer that the honorable Minister for Lands was misled, but inferred that he acted wrongly; in fact, the report of the committee amounted to a vote of want of confidence in that honorable gentleman. Then, again, Mr. Hume was asked—

“But you would give the head of the department a discretionary power? It is not for a subordinate officer to give the head of the department a discretionary power. I understood you to ask me if it would be desirable for the Minister to have a discretionary power, and I reply that I certainly do think it is desirable.”

Of course such an answer as that could only naturally be expected from a subordinate officer. Then he was asked—

“You are aware that the 32nd section of ‘*The Crown Lands Alienation Act of 1868*’ and ‘*The Mineral Lands Act of 1872*’ give no discretionary power to the Minister in dealing with those cases? The Act of 1868, I consider, does give a discretionary power; but the Act of 1872 certainly does not.”

Now, what conclusion could be derived from that, but that it was to be supposed that the latest legislation was more perfect than any previous legislation, and that it defined more clearly the duties of the Executive? Why, they might just as well sit all the year round and constitute themselves a court of censure, and do away with responsible Government altogether. Then the chairman asked—

“From your local experience of the working of those mines, and if you think it absolutely necessary that the Minister for Lands should have a discretionary power, I ask you if you do not think it would be better to give him that power by Act of Parliament? I think it would be a great hardship if the Minister did not have a discretionary power. In some cases, owing to accidents and from circumstances over which they have no control, people are sometimes prevented from paying at due date.”

The honorable member, Mr. Morehead, next asked whether Mr. Hume was aware of the grace which was allowed to pastoral lessees to pay up their rents; but it was well known that those moneys might be due to the Treasury when it was impossible to get them paid by the proper day. He would not detain the House any longer, except to say that he trusted they would not adopt the report, as, if they did, it would clearly amount to a vote of want of confidence in the present honorable Minister for Lands, as the sixth section of it said:—

“That, although the selection was, as at first applied for, taken up under the 32nd section of ‘*The Crown Lands Alienation Act of 1868*,’ and

although that section does not distinctly provide for the disposal of forfeited selections, your committee, taking into consideration the power given by ‘*The Mineral Lands Act of 1872*,’ and the action taken by the Secretary for Public Lands in proclaiming the selection forfeited and open to occupation under miners’ rights, are of opinion that the Secretary for Lands construed the Act of 1868 as giving him the same power as he possesses under the Act of 1872 to deal with the selection as forfeited.”

Neither that nor clauses 7 and 8 were substantiated. It was never imagined by the honorable Secretary for Lands that his decision in the case under consideration would be made a precedent; as throughout the whole evidence it would be seen that it was merely a matter of departmental arrangement, which it was considered perfectly right for the Minister to adopt. It was quite true that on some occasions a Minister might act apart from departmental arrangement; but he would ask, whether it was fair and just to a gentleman who had just taken office, and who, there was every reason to believe, was most anxious to do only what was right between all parties, that such a censure should be passed upon him as was conveyed by the report? He trusted the honorable member would not receive the censure of the House on such a trumpery matter.

Mr. GRIFFITH said he did not think the question involved in any way a vote of want of confidence in the honorable Minister for Lands; but, as he regarded it, it was simply a dry question of law. If it was a mere question of personal discretion of the honorable Minister for Lands, he should not be found to censure an exercise of such discretion, because he had sufficient confidence in the Government, so far as that was concerned. He simply regarded the whole question as one of law—whether it should be evaded or not. He regarded it as a most important feature of the Constitution Act that the Government could only alienate Crown lands in accordance with the provisions of any Act made on the subject. Now, according to the third condition of the 30th section of the Crown Lands Alienation Act of 1868—

“A deposit of five shillings per acre shall be paid at the time of application, and the balance of the purchase money within twelve months from the date of application being approved.”

It certainly was not proper for the Government to sell the lands under other conditions than those mentioned. But they had been asked by the honorable member for Aubigny to say that it might be within twelve months, or any other time that the Minister for Lands might think proper. He entertained a very strong opinion indeed that Acts of Parliament were passed to be obeyed, and not to be violated; and for that reason alone, without questioning the discretion of the honorable Secretary for Lands, he had come to the conclusion that the selection, the balance purchase money of which had not been paid

within twelve months, as required by the Act, was forfeited. He thought the Government might very well admit that the honorable Secretary for Lands had made a mistake—a mistake very easily made; and one for which there had been precedents; and that it would be better for them to say that in future they would abide by the strict letter of the law in such matters, and not by the spirit of it.

Mr. FRYAR said he would not attempt to set his views on a question of law, against those of the honorable member for Oxley; but he had no doubt whatever, that if the case was taken into a court of law there would be very little difficulty in getting a barrister to argue on the opposite side to the honorable member. In the few remarks he was about to make he would endeavor to avoid going over ground which had been already traversed. He had voted against the appointment of the Select Committee, and after what he had seen during the present session, he must say he had very little faith in the results of committees. Yet, he thought that in the present instance the inquiry might be productive of good; and he believed that there was not the slightest danger of the action by the honorable Minister for Lands being dragged in as a precedent. There were one or two prominent points to which reference had not been made, and to which he would like to draw attention. He found in the report, that there was stated to have been £17,000 worth of tin taken out of the selection in question within twelve months. The only evidence on that point was that of Mr. Walmesley, who, in answer to a question by the honorable member, Mr. Morehead, said that he had heard the amount; but he forgot exactly; but it was stated at about £17,000. Now, upon that evidence, which was hearsay, the committee had come to the conclusion that that amount of tin had been taken out. The only other evidence was that of the manager, who put the quantity down at 135 tons. He (Mr. Fryar) was not prepared to say that 135 tons was not worth £17,000; but, if it was, tin at Stanthorpe was worth about three times as much as it was worth elsewhere. They had also been told that Mr. Bruce was a smart man; and yet, in the face of getting £17,000 worth of tin within twelve months, he ran the risk of losing the land for the sake of saving the payment of £60; an amount which, quite irrespective of the value of the tin in the ground, would be compensated by the value of the fee simple of the land itself. The reason assigned for the company being about to forfeit the land was, that they had knocked off a number of men; in fact, had reduced the number from twenty-three to four. But he thought that if they had intended to forfeit the selection, they would have put on as many men as they could, so as to take out all the tin as soon as possible. Instead of that, because there happened to be

a slight fall in the market price of tin, the men were knocked off—and that too, after they had been getting two and a-half tons a-week. He thought that a sufficient amount of good would be done by the discussion which had taken place, without going to the extreme length recommended by the committee in the last paragraph, as follows:—

“Your committee, therefore, recommend that the balance of the purchase-money of the selection in question be returned to Messrs. Williams and Horton; that the title deeds be cancelled, and that the proclamation of forfeiture of the 18th of March last be restored to as full force and effect as if it had not been withdrawn.”

He thought it was a very extreme step to recommend the cancellation of title deeds and refundment of money, which the Government were not generally in the habit of doing. He should oppose the adoption of the report.

Mr. DICKSON said he had voted for the appointment of the committee, the adoption of whose report they were now discussing, and when the evidence had been placed in the hands of honorable members he fully expected to find that the action he then took had been justified; but he must say that he did not see anything whatever to support the statements contained in the report; and he should, therefore, feel obliged to vote against it. He had come to that conclusion from having read the evidence, and from the petition itself, which stated—

“We would, therefore, submit to your Honorable House, that after the proclamation in the *Government Gazette* of forfeiture, and the terms in which the 20th section of ‘*The Mineral Lands Act of 1872*’ is worded, the forfeited ground was taken up under miners’ licenses in all good faith.” Now, he conceived that the occupation of the land was entirely at the risk of those who chose to go on it before the proclamation of forfeiture took effect; and he could not, therefore, see on what ground those persons now went to that House and asked for the title deeds to be taken from the original occupants of the selection. He must, at the same time, say that it was a serious question with him as to whether the company were entitled to the title deeds after having allowed the time to expire within which they should have paid the purchase money. It did not, however, appear that it was an isolated case, according to the evidence of Mr. Tully, as regarded receiving purchase money after the day on which it was due. It appeared to him throughout to have been a piece of smart practice on the part of certain miners at Stanthorpe, and that opinion was strengthened by Mr. Hume’s evidence:—

“Well, would it indicate a considerable amount of discontent? I should not think it would. From my own experience, I think it would be possible to get up a petition in Stanthorpe about anything. I have known people there sign petitions for and against the same thing.”

After reading that, he could not attach much importance to any petition from that place.

Again, Mr. Commissioner Hume, in a letter to the honorable Secretary for Works, said:—

“That the men knew the land was not open to license, consequently could sustain no real damage from the action of the Government, as alleged; that the insinuation it was paid up only because the licensees had proved it to be valuable, must be false, inasmuch as the balance was paid on the 15th April, whereas the claims in question were only pegged out on the 27th.”

He thought the whole evidence went to show that the allegations contained in the petition were not sustained. Before closing his remarks, he must say that he quite coincided with the opinions which had been expressed by the honorable Minister for Lands when reviewing the evidence, more especially where Mr. Hume was recalled, and questions were put to him, with the view of eliciting his opinions as to the extent of discretionary power which should be vested in the head of his department. He did not think, nor did he say so for one moment, that the honorable members of the committee were actuated by any animus against the honorable Minister for Lands; but he certainly considered that they might have introduced other matters into the evidence, which had upon the face of it too much of an *ex parte* appearance.

Mr. MACROSSAN said he considered the honorable Secretary for Lands, and some other honorable members who had since spoken, had made a great mistake. The honorable Minister for Lands complained that the members of the committee had displayed an animus against him, but that he (Mr. Macrossan) denied; for not only did he think that no honorable member had any such animus, but after reading the evidence, he had failed to see anything that could lead to such a conclusion. He quite agreed with the report of the committee. It was with him a question whether the honorable Minister for Lands should exercise a discretionary power which the law did not allow him to use. The honorable member for Oxley had not stated his opinion of the law, but had merely read it, and if the honorable Attorney-General could show that that reading was wrong, then he (Mr. Macrossan) would not support the adoption of the report; if the honorable gentleman could not do so then he should feel himself bound to support it. The Act stated very plainly that five shillings an acre must be paid on application, and the balance of the purchase money within twelve months after the date of application being approved. It was quite clear also that the honorable Minister for Lands so read the Act until he was waited upon by Mr. Bruce and Mr. Abbott; the honorable gentleman must have held that view, or he would not have proclaimed the selection open to miners' rights. But the honorable gentleman changed his mind, as he had stated; as he believed that Mr. Bruce had forgotten the time when the payment of the purchase money was due. Now, he could not

believe that the owners of a rich claim as that had been represented to be, could have worked it for ten weeks after the date on which the money for the land was due, without being aware of the fact that they had no legal title to it. He had had some experience in mining matters, and, although he had known miners neglect to take out their rights for a few days, they never did so when there was a valuable claim in question. He considered that the honorable Minister for Lands would have acted well if he had at once acknowledged that he had made a mistake instead of putting forward such a disingenuous defence—as disingenuous as the paragraph of Mr. Hume's letter to the honorable gentleman, in which he stated:—

“That the insinuation it was paid up only because the licensees had proved it to be valuable must be false, inasmuch as the balance was paid on the 15th April, whereas the claims in question were only pegged out on the 27th.”

Although he thought the honorable Minister for Lands had made a mistake, he could not go so far to support him as to oppose the adoption of the report.

The ATTORNEY-GENERAL said he should oppose the motion for the adoption of the report. He believed that the question as to the propriety of receiving money after the time at which it should have been paid had elapsed had not for the first time been raised in the Lands Office in reference to the matter now under discussion. He understood that it had been the practice in that department to receive money in payment for lands after the proper time had elapsed, and it was on the principle that neglect in such payment might be condoned on receipt of the money afterwards. That had been the case in the colony of Victoria; and, as he said, he believed it had been the case in this colony. If there was any question as to the right to do so, it was one for the decision of the courts of law, as he did not consider that that House should convert itself into a legal tribunal for the decision of such points. He might say that the report, if adopted, might affect the title of twenty or thirty other similar cases.

Mr. MORGAN said he did not wish to give a silent vote on the subject, nor did he intend to occupy the time of the House at any length. He based the opinions he had formed upon the subject on the evidence of Mr. Hume, who was a most valuable officer, and who was thoroughly conversant with his duties as Commissioner on the tin mines. He might also say that he did not consider it possible that the honorable Minister for Lands could administer his department in such an unworthy way as to warrant the censure sought to be passed upon him. He should oppose the adoption of the report.

Mr. PETTIGREW said he should vote against the motion, as he thought the report, if adopted, would do a great deal of harm by preventing the Lands Department from re-

ceiving any money even a day after it was due. He looked upon the present case as merely an attempt to jump the company's claim.

Mr. STEWART thought the present case was one in which the discretionary power of the honorable Minister for Lands was brought into question. He could bear out the assertion that it was customary to send out notices as to when purchase moneys would be payable, about a month before the date on which they were due, as he had himself received such notices. If the manager of the St. Leonard's Company had been in the habit of receiving such notices, he might very fairly have depended upon them. And, although it was said that the manager's books should have shown him when the payment was due, still it must be remembered that a man who was engaged in working tin selections would not be constantly referring to those books. The payment was not 5s. on application and 15s. within twelve months, but it was 15s. after the confirmation of the application, which, in many cases, was not made until some weeks afterwards. The effect of the report being adopted would, according to the last paragraph of it, be

"That the balance of the purchase money of the selection in question be returned to Messrs. Williams and Horton; that the title deeds be cancelled, and that the proclamation of forfeiture of the 18th of March last be restored to as full force and effect as if it had not been withdrawn."

Now he took it that the land would have to be handed over to somebody, but those parties who petitioned had no right to take it up, previous to the date of proclamation, as they wished to do. It was evidently intended that the claim should be given to somebody—he would like to know to whom?

Mr. PALMER: The honorable Attorney-General had given the House the benefit of his opinion, but he thought the honorable member had not read the evidence previous to giving that opinion. The honorable gentleman stated that there had been several cases of a similar kind, whereas Mr. Tully, in his evidence, said, when the question was put to him—

"48. Has there ever been a case where the purchase money has been received when the land was proclaimed or about to be proclaimed, in the way you stated—or is this a solitary case of the kind? Yes.

"49. This case, as it stands, is a solitary and an extraordinary case? Yes."

Now, how the honorable Attorney-General could give the legal opinion he had done, on the ground that the present was the twenty-first or thirty-first case of its kind, he could not understand, as it had been admitted both by the honorable Minister for Lands and by Mr. Tully, that it was the first case. He must say that when first he read the report of the committee he was inclined to think that the committee had gone too far, but when he heard the speech of the honor-

able Minister for Lands—when that honorable member made a speech of such enormous length on a matter that could have been disposed of in five minutes, he began to doubt whether his first opinion was correct. He thought the honorable member had done an illegal action, and that it would have been far better if he had confessed to the House that he had made a mistake. He would not impute improper motives to the honorable gentleman, but he was confident he had made a mistake; it was the first case, and he trusted it would be the last. As to what had been said about notices being sent, he looked upon that part of the company's case as of no importance whatever, as the Government were not bound to give notice. The people taking up land were bound to pay the money, and if the Government chose to give them notice when that money was due, it was merely a matter of grace or form on their part. The simple facts of the matter were, that the lessees had a selection which was supposed to be very valuable, and they neglected to pay up the purchase money, and hence, according to the Act, the selection ought to have been forfeited. The honorable Minister for Lands made a mistake, however, and the honorable member should have confessed that he had done so. Although he could not agree with the whole of the report, thinking that it was right in the main, and that the confidence of the miners would be very much shaken in any Government if such things were allowed, and if they thought favoritism was shown—he should vote for the adoption of the report. He would very much like to know, before the discussion on the question was brought to a close, whether the title deeds of the land had been actually issued to the company.

The SECRETARY FOR PUBLIC LANDS: No.

Mr. PALMER: Well, that would strengthen him in supporting the motion, as, if the deeds had been issued, it might have had some effect with him. He did not see why the honorable Minister for Lands should issue the leases, as he had no right whatever to receive the money for them. Believing that the honorable member was wrong in what he had done, and that the honorable member knew he was wrong—otherwise he would not have made such an elaborate speech on the subject—he sincerely hoped that the law would in future be carried out to the strict letter, and that as the present was stated to be a solitary case, there would not be a repetition of it.

The COLONIAL SECRETARY said he had been very much astonished at some of the remarks which had been advanced during the present discussion, as the whole matter was really comprised within a very small compass. There was no difficulty in discovering the object of the report, which appeared to have been drawn up by three members of the committee. That report recommended that the grant should be withdrawn, but he would like to know from the honorable member for Carnarvon, how a grant, which had been

signed, sealed, and delivered, could be cancelled. With regard to the observation made by the honorable member for Port Curtis, that the present was an isolated case, he would refer to the question put to Mr. Tully, namely, whether there had not been twenty or thirty cases since the passing of the Act of 1868, where rent or purchase money of mineral lands had been received after the day on which they had been properly due. To that question Mr. Tully said "Yes," so that the present was not an isolated case. But that was not the question, but whether the honorable Minister for Lands had any right to cancel the proclamation of lands which were by it to be thrown open as mining areas under miners' rights. On looking to the thirty-third clause in the Act of 1872, he found it was most distinctly laid down that

"The Governor may by proclamation set apart any area or areas in such proclamation defined wherein any person holding mining licenses under this Act may mine for minerals other than gold under such licenses only. And such proclamation may be altered or revoked at the discretion of the Governor in Council."

Now, that was all that had been done by his honorable colleague the Minister for Lands—the proclamation had been simply revoked. If his honorable colleague had been guilty of any omission or negligence, it would have been different; but what he had done had, according to Mr. Tully's evidence, been done twenty or thirty times before. When they came to the question of revocation, it was perfectly clear that the Minister for Lands had the power to revoke. The proclamation was that the land would be open to miners' licenses on 27th April, but on the 16th April that proclamation was revoked, and he would like to know what the petitioners had to complain of. They had no more right to that land than any individual who was not concerned in the mining interest, and what cause of complaint had they then? There was no one who was more anxious to promote the interests of the miners than he was, or than the present Government were; they had always proved their wishes in that respect, but that was no reason why they should allow themselves to be sat upon to suit the convenience of certain master miners. He was quite prepared to admit that the Government could not issue titles to the company, as they had not paid up the purchase money of the land within the period specified by the Act. At the same time, however, he contended that the other parties had no *locus standi* as against his honorable colleague, the Minister for Lands. It was felt that an injury had been done to a company who had expended a large sum of money in working their selection, and the proclamation was revoked in order that an inquiry might be made as to the reasons why they had not paid up the purchase money as they should have done; the result of which inquiry was deemed satisfactory by

the honorable Minister for Lands. No case had been made out by the petitioners, and he trusted, therefore, that the honorable member for Carnarvon would withdraw the motion for the adoption of the report.

Mr. JOHN SCOTT was understood to oppose the adoption of the report of the committee. There was only one other thing he would like to call attention to, and that was, that under the Act of 1868, no land could be forfeited until it was proclaimed as such, and this land had never been proclaimed as forfeited in any shape or form. The notice in the *Gazette* did not refer to it; it referred to block 420, but the whole of the evidence referred to 420B, which was a distinct block altogether.

Mr. BELL said, he thought questions of this kind were very difficult for a legislative body to deal with, and that it would be well if that Assembly set its face against entering upon the consideration of such questions. He believed it was next to impossible to obtain evidence on each side in such a way as to lead the House to a just conclusion as to the merits of the case. He admitted that if it were shown, as it had been attempted to be shown in one part of the evidence given by Mr. Tully, that this was an isolated case, and one which the honorable the Minister for Lands had dealt with in a manner which was unusual, he should have been disposed to vote for the adoption of the report, but as he was perfectly satisfied that it was not an isolated case—that it was a case which, whether rightly or wrongly, the Government had taken upon themselves to decide in a way similar to cases connected with the Crown tenants of the colony, he felt bound to oppose it. He thought the case was analogous to many cases connected with Crown tenants which had been decided by previous Governments, and as he saw nothing in the evidence to lead him to believe conclusively that the report should be adopted, he should vote against it. But he had come to the conclusion that these were cases that that House should not entertain. They were cases which should be brought before the law courts of the colony, where the whole of the evidence could be heard, and decided upon. Honorable members were not in that House to decide in cases like this, upon the evidence of witnesses they had never seen or heard, and if they were right in doing so the courts of justice must be wrong in requiring the presence of witnesses. One or the other must be wrong, and he believed they were wrong; and as the honorable the Minister for Lands, who was not often right, had a precedent for what he had done, he would vote with him on this motion.

Mr. EDMONDSTONE differed from the views of the last speaker with regard to cases of this kind. He believed that by the evidence of witnesses examined before select committees the truth could be, and was frequently arrived at, and it was only by that means

they could obtain it. It certainly would be unfortunate that anything should occur to sever the confidence of the mining portion of the community from the Government, as had been said by one or two previous speakers; but it appeared to him that this had been simply a piece of sharp practice by the parties who got up the petition. Should the House vote in favor of the report, the result would be that the Ministry would have no discretionary power to settle disputes which might arise in various parts of the colony in which the law was not rigidly laid down, and the parties walked within the exact letter of it. He certainly thought that, if these men had the impudence to peg out the land before it was proclaimed open to selection, they committed an illegal act, because, under the circumstances, they could in no way say they would select it. They might peg the land out with a view of taking it up ultimately; but when they said it should be theirs simply because they pegged it out, and then brought the matter before the House as having a proper claim, he thought they had not a single leg to stand upon. He would vote against the adoption of the report.

Mr. GROOM said, so far from the petitioner not having a leg to stand upon, he thought he had a very good case to come to the House with, and the various expressions of honorable members had led him to think that the inquiry would not be without good, whether it was to this Ministry or any future Ministry. One of the chief reasons why the miners of Stanthorpe had brought the case before the House just now was this—that the different companies at Stanthorpe were endeavoring to do away with European labor, and to inundate the tin mines with Chinese labor. That was the reason why each steamer by the Torres Straits brought down 100 or 200 Chinese, who were flocking to the tin mines and inundating the country with an inferior class of labor; and the company in question was not an exception to the general rule. In fact, European labor was being driven out by Chinese labor, and the Europeans had to look out and find land by working under mining licenses, and they naturally expected that the Government would keep faith with them. The honorable member for Wickham said the men had no right to peg out the ground; but it was usual, when notice was given that land would be open for selection on a certain day, for men to peg it out; and on the day it was open for selection, the Commissioner went round, and decided according to the way in which the selections were pegged out, and if there were more than one applicant for a certain selection, it was decided by lot, in accordance with the regulations. It was the withdrawal of the notice after the men had pegged out the ground, according to the regulations, that had caused the petitioners to apply to the House for redress. He joined with the view of the case taken by the honorable member for

Oxley, that the money was due on the 4th of February, 1873, and the confirmation having been duly notified to the company, they were bound to pay the balance of the purchase money on the 4th of February, 1874. In the month of February notification appeared in the *Border Post* that payments due on certain selections should be paid that month, and amongst the number appeared 420s—not 420, as stated by the honorable member for Springsure—although, in the *Government Gazette*, it was referred to as 420. In the *Border Post* the Commissioner specified the number and letter, to distinguish it from some other 420 which might be in the same neighborhood; but February passed by, and the company did not pay the money, and it was not until after the Government proclaimed the land open for selection that they took it into their heads that the land was worth paying for, and they then applied that the balance of the purchase money should be received. And it was not a matter of two or three days' delay; it was a matter of ten weeks, between the time the money ought to have been paid and the time it was actually received by the Minister for Lands; and, in the meantime, it was clear, from the evidence, that some persons had been endeavoring to hurry forward the preparation of the deeds—and those persons were, he believed, persons in this city who were relatives of some of the St. Leonard's Company. Evidence was given, although it was not taken down, that they were relatives of members of the St. Leonard's Company, and that three of the members of the company resided in Sydney, and had not the slightest interest in Queensland except their selections on the tin mines, which they were working by Chinese labor;—and why the Government should stand up and defend a company residing in another colony, who employed Chinese labor, against the claims of their fellow-colonists, he could not understand.

AN HONORABLE MEMBER: Where is it in the evidence?

Mr. GROOM: The committee was appointed to inquire into the matter, and they knew it, and the miners of Stanthorpe knew it, and they would not be thankful to the Government for their action in this matter. He believed that the report was fully borne out by the evidence, and as for the statement that there had been twenty or thirty similar cases, he scarcely thought it was consistent with the fact. He did not believe there were twenty or thirty similar cases, because he believed that Mr. Tully's evidence had reference to copper selections, and not to tin selections at all. The case was a perfectly isolated one, and there could be no doubt that had it not been for the industry and perseverance of the miners, who showed that there was more tin in the ground, the company would not have set to work to see if they could not have their claim made legal by paying the balance of the purchase money;



and he certainly thought those miners had a very good claim indeed to come before the House. The honorable member for Dalby said they should not have come before the House at all; but he would like to know to what other tribunal they could go. The honorable member said they should go to a court of law; but it was all very well to talk about fighting a Government in a court of law. Some persons had learned by experience what it cost to fight a Government in that way, and he would not recommend anyone to attempt it, because it would be much better to let the case go altogether, judging from the cases which had already come under their notice. He thought it was a very fair case, and that the Ministry had made a great mistake in receiving the money, and that it would be much better, even now, to return it and let their fellow-colonists have the use of the land. He would vote for the adoption of the report.

Mr. MILES said, notwithstanding all that had been said by the honorable the Secretary for Lands on this matter, he could state that when he first waited upon that honorable member respecting it he freely admitted that he had made a mistake, and that he wished he had not done it.

The SECRETARY FOR PUBLIC LANDS: No, no.

Mr. MILES: He hoped the honorable member would not compel him to tell him plain facts, but he (the Secretary for Lands) freely admitted that he had made a mistake, and that he was sorry for it. Perhaps the honorable member would deny that he said he would allow the motion to go as formal—that he would not oppose it. There was, perhaps, no use saying more about it, but he (Mr. Miles) knew it was a fact. With regard to the statement by the honorable member for Enoggera, that certain questions should not have been put to Mr. Hume, he maintained that a member of a committee had a right to put any question he pleased. And then the question was not put with a view of ascertaining whether the Minister for Lands had a discretionary power, but to ascertain what would be the effect of such a proceeding upon a mining district; and who was in a better position to know it than the Commissioner who was constantly on duty there? It was the duty of the committee to find out from that officer what would be the effect of the action of the Government—as to whether it would be likely to lead to discontent or otherwise, and they had a perfect right to put the question. There was another matter: every witness was either directly interested in the case, or under the influence of the Minister for Lands, with the exception of the unfortunate miner, upon whose statement the honorable the Secretary for Lands had endeavored to cast an imputation; but he had no hesitation in saying that he believed every word that witness stated equally as much as any witness who appeared before the committee. The honor-

able the Secretary for Lands objected to the questions relating to undue influence having been used to secure the issue of the title deeds, but he could state that he had found out—he would not state where he had got the information from—that Mr. Abbott was very diligent in using all the influence in his power to get the title deeds hurried through, and when he (Mr. Miles) saw there was anything of that kind in the background, he would endeavor to stop it if he could. If he found that gentleman trying to push these title deeds through, he would endeavor to prevent him as far as possible. But the whole thing hinged upon this:—He did not care whether the parties received a notice to pay the balance of the purchase money or not—the Act required that it should be paid on a certain date, and if it were not paid the land became forfeited; and he maintained that the action of the honorable the Secretary for Lands was a stretch of power, and that House ought to be extremely careful not to sanction any breach of the laws of the country by a Minister, and there was no doubt that the action of the honorable the Secretary for Lands was illegal. He had not the slightest doubt that these men would work the ground in spite of the action that had been taken. He had received a telegram stating that, whether the report was adopted or not, they would work it; but he trusted the House would adopt the report, and not allow such an act of injustice to be perpetrated.

Question put, and negatived on division:—

Ayes, 9.	Noes, 16.
Mr. Palmer	Mr. MacDevitt
Morehead	Stephens
" Royds	" Bell
" Grocm	" Dickson
" Macrossan	" Macalister
" Beattie	" Hemmant
" Miles	" McIlwraith
" W. Scott.	" Foote
" Griffith	" Morgan
	" Pettigrew
	" Fryar
	" Pechey
	" Edmondsone
	" Low
	" J. Scott
	" Stewart.

#### SUSPENSION OF STANDING ORDERS.

The SECRETARY FOR PUBLIC LANDS moved—

That so much of the Standing Orders be suspended as will admit of a Notice of Motion being now received, although the House has proceeded to the Orders of the Day.

He said, this was necessary, because, according to the Standing Orders, a notice of motion could not be given after the Orders of the Day had been proceeded with.

Mr. PALMER said he thought this was a dangerous precedent, and he hoped the House would object to it. He supposed they all knew what the notice of motion was, and it could be given to-morrow very well. It was carrying matters with rather a high hand, to rush business through in this very objectionable manner; there was no necessity whatever for it, and it could just as well be taken in

the ordinary course, instead of rushing it through the House at that late hour.

The COLONIAL SECRETARY could not see why the honorable member for Port Curtis should say there was any attempt to rush business through the House. What difference could it make whether this notice of motion was given at five o'clock or at ten? It would be for to-morrow, and he hoped there would be no unreasonable objection to it. There was no doubt they were very near the end of the session, and if they could do anything with regard to the land question, it was desirable that they should do so, in order to ascertain the feelings of both branches of the Legislature respecting it, at as early a date as possible.

Mr. PECHÉY said, although he was not exactly aware of the matter that might be brought under discussion by this notice of motion, he imagined it was something referring to the land question, and he might remark that that matter had been rather fully discussed during the session. He supposed that the country had been able to form its opinion as to the desire of the different parties—

Mr. MOREHEAD rose to a point of order. He thought the honorable member was not in order in discussing the land question. The question before the House was the suspension of the Standing Orders.

The SPEAKER said, if the honorable member was referring to the land question he was decidedly out of order.

Mr. PECHÉY said he would not detain the House long, and all he could say was that if the motion was directed at bringing on the land question in a new phase he was extremely glad to see the Government engaged on that subject, but at the same time—

The SPEAKER: I may tell the honorable member that the question is, that portion of the Standing Orders be suspended.

Mr. BELL said, if he understood the use of the Standing Orders it was to prescribe rules by which business should be conducted, and they should not be suspended or set aside lightly—unless some emergency took place which would induce the House to do so. Now, what was the position? The honorable the Secretary for Lands moved the suspension of the Standing Orders without giving a single reason as to why it should be done. They were told that it was a motion to suspend the Standing Orders upon a question which was yet, so far as they knew, under discussion in the other Chamber. In fact they were anticipating the action of the other Chamber.

The SECRETARY FOR PUBLIC LANDS: It is here.

Mr. PALMER: It was not here when the motion was made.

Mr. BELL: He had not heard it announced by the Speaker that the Land Bill had come down from the other House, and yet they were asked to suspend the Standing Orders. He thought to-morrow would be quite time

enough to give this notice in due course. There was no necessity for such haste.

The question was then put and passed.

#### CROWN LANDS SALES BILL.

The SPEAKER announced a message from the Legislative Council, insisting upon nearly the whole of their amendments in this Bill.

The SECRETARY FOR PUBLIC LANDS: I do not intend to make any motion on this message.

The SPEAKER: Before the honorable member makes any statement I think it my duty to point out to the House, in connection with the free conference, that although one appears to have failed as far as we are able to judge—for we have not heard any distinct intimation on the subject—it is the practice of the House of Commons to have a further conference. I do not suggest it, I merely think it my duty to state the practice. It is the practice of the English Parliament to have a second conference, so that every opportunity may be embraced by each House to come to a friendly understanding on the matter in dispute.

The SECRETARY FOR PUBLIC LANDS: I may state that at the free conference held this afternoon there was every reason to suppose that we could come to an arrangement, but there were three points upon which the managers of the conference on the part of the other House expressed themselves very positively. One was, that they insisted upon compensation for the resumption of their runs; and another was, that they insisted that relief should be given with respect to titles under the Acts of 1866 and 1868. Upon these two points they were particularly firm. The other point was confining the area which the Government should have power to proclaim as homesteads to a very small portion in each run, as indicated by their amendment, and the Government are aware that in some instances they would not be worth resuming, and that this House would not consent to it. We also found that a large majority of the other House insisted upon ten per cent. compensation, and I think it is therefore hopeless to ask for another conference. But, besides that, I believe I am correct in saying that it is the other House that should ask for a further conference, as they asked for one in the first instance. At all events, it is not considered advisable to hold another conference, and I therefore intend to let the Bill drop, or remain where it is.

The SPEAKER: I think the proper course, if the honorable member does not intend to proceed further with the Bill, is for some honorable member to move that it be taken into consideration at some distant date.

The COLONIAL SECRETARY: If that is your opinion, sir, I beg to move that the amendments of the Legislative Council be taken into consideration this day six months.

Question put and passed.

The SECRETARY FOR PUBLIC LANDS then gave notice of motion for the resumption of certain lands in the settled districts.