

I am right in saying that—is pledged to use every effort to bring about an immediate amendment of the Constitution Act, by the abolition of the property qualification of members, and the extension of the franchise in such a way as to put the residents of this colony on a footing of equality with the people of the other colonies. But there is not a word in the Ministerial programme with regard to these amendments. But in addition to all this, there is a very grave matter to which I feel that my duty to the country, and my duty to my constituents, compels me to call attention. It has been said outside this House, by persons of opposite political leanings and of diverse sympathies in many respects, but who by their profession and training are qualified to speak with authority, it has been said by these persons that a grave constitutional error has been committed at the very outset of our political existence, in the way in which appointments to the Legislative Council have been made. I do not intend, sir, to speak in disparagement of the appointments in themselves; I am now only going to speak as to the manner in which the appointments were made. I shall be as brief as possible. I will at once then ask members to refer to the 6th section of the Constitution Act. In that section it is laid down: "Before the first meeting of the Legislative Council and Legislative Assembly the Governor in Council may in Her Majesty's name, by instruments under the public seal of the colony, summon to the Legislative Council of the colony such persons, not being more than 15, as he shall think fit, and thereafter may from time, as vacancies occur, in like manner, summon to the Legislative Council such other persons as he shall think fit, and every person so summoned shall thereby become a member of the Council." That section enacts in the most clear and unmistakable language that before the first meeting of Parliament, the Governor-in-Council shall summon to the Legislative Council a certain number of persons who shall thereupon become members of the Council; and it goes on to say that the Governor-in-Council may afterwards, from time to time, as vacancies occur, but "in like manner" as in the case of the persons originally appointed, summon such

other persons as he may think fit. The wording of the clause is so clear, so explicit, so very free from ambiguity, that I marvel that any question should ever have been raised as to its construction. It is clear that the Governor-in-Council—that is, in a Council composed, chiefly at all events, of representatives of the people—should nominate the members of the Legislative Council. That, I think, is perfectly clear. Neither dogmatic assertion nor ingenious sophistry can alter the fact one jot. What happened? The contention that the members of the old Executive Council which ceased to be on the 21st October last, that is to say when our new Constitution was proclaimed, could be held to constitute such a Council as the Act contemplates has, I believe, been given up.

THE PREMIER: It has not been given up. The Executive Council is not mentioned in the Constitution Act. It is formed by the Governor, under the Royal Instructions.

MR. CANNING: I do not think the hon. gentleman can contend that the Constitution Act contemplated that the Council could have been other than a representative one, and the Royal Instructions could not over-ride an Act of the Imperial Parliament. The clause lays down the rule for all time, so long as the Legislative Council is non-elective. The appointments, in case of vacancies, are to be made "in like manner" as the original appointments were made, by the Governor-in-Council. If a vacancy occurred in the Upper House to-morrow, could it be said for a moment that the appointment to the vacant seat could be made "in like manner" as the original appointments were made. It would be made by the Governor-in-Council, but in a Council representative of the people. If it should be found that the Legislative Council of the colony under the new Constitution was not appointed in accordance with the Constitution Act, if that be admitted, I say then, sir, we are face to face with a very grave difficulty. The hon. the Premier laughs. He may find it a more serious question that he imagines. The question is whether, as the Legislative Council forms an essential part of Parliament, any acts done or measures enacted by Parliament may not

be tainted with illegality. The question is a grave one. The people of the colony and this House have a right to have every possible doubt removed. If it is not so, so much the better. But if there is any doubt about it, the question is so grave that it should be answered at once. The question may arise, as I have already said, whether any Act passed by this Parliament may not hereafter be assailed on the ground of illegality, and whether judgments given under the Acts of this Parliament may not be appealed against. The point is of so much importance that I say this House and the country have a right to demand an answer to the question, and have a right to an assurance that the informality will not affect the validity of any legislation enacted by the present Parliament. Arising out of that, there is another matter also of the very greatest importance to the colony. We find that the Minister who has been regarded in all the other colonies having Responsible Government as the Minister holding the chief appointment in the Ministry, we find that this Minister, the Colonial Secretary, has here been chosen from that body (the Legislative Council), as to the legality of the constitution of which there is some serious doubt. We have really to consider this, whether a grave breach of constitutional usage, a proceeding totally at variance with the principles of Representative Government has not been committed in appointing to what is substantially the most important Ministerial office a gentleman who cannot in any way be regarded as a representative of the people,—whether almost the first act committed under Responsible Government is not totally at variance with the principle of Representative Government? Let me point out that the course taken with regard to this appointment is almost without precedent. If we refer to what has taken place in all the other colonies we shall find that in almost every case the Colonial Secretary has been a member of the lower branch of the Legislature, has sat in the Legislative Assembly.

THE PREMIER: Not always. It has not always been the case in South Australia. The late Mr. Ramsay was a case in point; he held a seat in the Upper House.

MR. CANNING: There may be a few exceptions. Let us look at the other colonies. When Queensland first became a separate colony, under Responsible Government, the Governor took out with him a gentleman of some distinction, the present Sir Robert Herbert, who became the first Colonial Secretary, and nothing could have been easier than to have appointed him to that office without his going before the electors; but the Governor did not do so, and Mr. Herbert went before a popular constituency and was elected. They have had fourteen Ministries in Queensland since that date, and in every one of them the Colonial Secretary has been a member of the Assembly. In New South Wales, since the inauguration of Responsible Government, they have had 26 Ministries, in all of which the Colonial Secretary has sat in the Assembly. In South Australia they have had 38 Ministries, and I believe that with very few exceptions the Colonial Secretary held a seat in the Lower House. In Victoria I can only find one instance where the Colonial Secretary sat in the Upper House.

THE PREMIER: What's the point of that?

MR. CANNING: That all usage goes to show that the place for the Colonial Secretary is in the Lower House, the Legislative Assembly. That is the point, and it is a most important point. I submit that the Colonial Secretary, by virtue of his office, is the most important member of the Ministry. I say it without disparagement of the Premier; and I say that the Colonial Secretary should sit in this Assembly, the popular Assembly, and that he should be directly a representative of the people. I need only point to the number of departments committed to the charge of the Colonial Secretary, in proof of the importance of his office. I find that he has no less than 15 departments placed under him, whilst under the Treasurer there are only six, and under the Attorney General only three, and under the Commissioner of Lands five, and under the Commissioner of Railways two. As Colonial Secretary he is charged with all the general business of the colony, and he is, or should be, the exponent of the general policy of the Ministry. In that case it can hardly be denied that his place is in

this House. The Colonial Treasurer may be the exponent of the financial policy of the Government, but the Colonial Secretary should be in close communication with him and prepared to support him in this House. All the departments under him are more or less connected with the everyday business of life and with the welfare of the people; and his proper place is in this House, the popular Assembly, to answer questions connected with those departments affecting so closely as they do the general welfare of the country. And my point is that in appointing to that position a gentleman who can in no way be regarded as a representative of the people, but is a member of an Upper House, the validity of whose very constitution is open to doubt, the Ministry have committed a grave breach of constitutional usage, and have not acted in accordance with the spirit of representative institutions under Parliamentary Government. It is impossible in these circumstances that I can give my support to a Ministry so constituted. [The PREMIER: Hear, hear.] He says 'hear, hear.' In order that the matter may be brought to a practical issue I will at once move an amendment on the Address. The amendment I propose is this: "That the question be amended by the omission from the Address of all the words in the third paragraph, with a view to the insertion in their place of the following words: 'And we beg further to inform Your Excellency that while recognising the importance of the subjects submitted in Your Excellency's Speech, we decline to proceed to their consideration until Advisers appointed in accordance with Constitutional usage have been called to Your Excellency's Council.'" I think the questions I have raised are of such importance that they merit full discussion. I think if at the outset of your career we commence by flinging to the winds all the rules and principles which should guide and govern representative institutions, we shall make ourselves responsible for many evils, and at the same time stultify ourselves in the eyes of the neighboring colonies.

THE PREMIER (Hon. J. Forrest): May I ask which member of the Government he would like to see in the Upper House?

MR. CANNING: Either the Minister of Lands or the Attorney General might very well sit in the Upper House.

No one seconding the amendment, it lapsed.

MR. COOKWORTHY: I have listened with great attention to the speech of the hon. member for York, and I have listened with great attention to addresses he has made in public on more than one former occasion, chiefly with regard to the change of our Constitution under Responsible Government. The burden of those speeches never contained any hint that the change of Constitution was necessary on account of any inherent unworthiness on the part of the former Government, but simply because of our inability to borrow money under it, as we chose, in order to develop the resources of the colony, without being burdened and hampered by Downing Street. I was therefore surprised to hear the hon. member get up this evening and object to the proposals of the Ministry in the way of public works, after the many years which he himself advocated a bold policy for the development of the resources of the colony, the chief item in which was the Bayswater-Busselton railway. In addressing this House on a former occasion the hon. member stated that in his opinion this was a very necessary work, and a work that ought to be carried out at once. He has changed his mind since, and he has been the first to raise the present dispute. Though the hon. member says he has learnt wisdom by experience, or with age, I would remind him that there is also a converse to that adage. The hon. member in ridiculing the claims of the Southern districts to railway communication asked the House to compare those districts with the activity of the Eastern districts before they were granted a railway, with their great loads of produce and their hundreds of teams. Now though comparisons are odious and should never be brought into discussion, we all know that previous to the Eastern Railway being constructed those same Eastern Districts were in anything but an enviable plight. Their chief produce was sandalwood, brought down by teams; and I must say, as we are going into comparisons, the production of sandalwood was comparatively trifling compared with the production of timber