

would be wanted to cover the estimated expenditure of the ensuing year, and it appeared to him that the better plan would be to postpone the revision of the tariff until the Council ascertained what amount of taxation it would be necessary to raise.

The COLONIAL SECRETARY (Hon. F. P. Barlee) admitted that the course proposed by the Hon. the Speaker was in accordance with the practice of the House of Commons and other legislative assemblies, but he thought that as the House was already in possession of every item of extraordinary expenditure which it was estimated would be required during the ensuing year, the consideration of ways and means might have been proceeded with. In the financial statement he had submitted to the House every single item of proposed alteration in the expenditure, and stated that, with the exception of those alterations, the Estimates for 1873 would be the same as the Estimates for the current year. He had then mentioned that the extra expenditure which would have to be provided would be about £5,900, which he proposed to meet by the imposition of a duty of 12½ per cent on the actual customs' duties now paid. Since then, other works had been sanctioned by the House, such as the extension of the telegraph lines, and one or two other matters, which would bring the extraordinary expenditure to about £8,000 which would be the sum to meet which the House would have to provide ways and means. He, however, had no possible objection to the usual parliamentary practice being followed, although, as the House was already in possession of every possible information on the subject, that would be an unnecessary proceeding. He was entirely in the hands of the House.

The SPEAKER said he would be very sorry to delay the business of the House, but he thought that the proper constitutional course should be followed. All the information which the Council was in possession of in regard to the extra expenditure which would have to be provided for, was simply contained in a few round numbers submitted by the Colonial Secretary on the occasion of delivering his financial statement. The hon. gentleman then stated that he would require a certain sum of money, but it would be for the House to say whether he shall have it or not. Until the Council was in possession of the details of every item of estimated expenditure, he the Speaker thought that the consideration of ways and means should be postponed.

The COLONIAL SECRETARY (Hon. F. P. Barlee) intimated that on Friday he would be prepared to lay the Estimates on the table.

Progress reported, and leave obtained to sit again.

The Council adjourned at 7.40 p.m.

LEGISLATIVE COUNCIL,

Thursday, 22nd August, 1872.

Grand Juries Bill: first reading—Central Board of Education By-Laws: in committee.

The SPEAKER took the Chair at 12 noon.
PRAYERS.

GRAND JURIES BILL.

First Reading.

Mr. BROCKMAN brought up a Bill to repeal an Ordinance for abolishing grand juries, 18th Vic. No. 5, and to make other provisions in lieu thereof.

The Bill was read a first time.

CENTRAL BOARD OF EDUCATION BY-LAWS.

Mr. STEERE, in moving that the Council do take into its consideration the present by-laws of the Central Board of Education, with a view to their amendment, said there was no wish on his part, nor, he believed, on the part of any hon. member of the House, nor of any right-minded person in the colony, that the existing Education Act should be altered this session; on the contrary, all were anxious that it should be fairly tested. The working of the system, however, depended entirely upon the by-laws framed by the Central Board with the view of carrying out the provisions of the Act; in fact, those by-laws were the very essence of the Act, and unless they were satisfactory to the colony, the whole Act must become useless for the purpose for which it is intended. Before proceeding to point out where he considered the by-laws required amending, he would crave the indulgence of the House while he reverted to the appointment of the members of the board, in the first instance. It would be in the recollection of hon. members that the Council determined that the nomination of the board should rest with the Governor, and, shortly after the Council separated, the first five members of the Central Board of Education were duly nominated, and of these five two resided at

such a long distance from Perth that they could not without much inconvenience, attend the meetings of the board when necessary; in fact, he thought it must have been done for the purpose of preventing their attendance, and he believed that one of those members was appointed without his leave or knowledge, and that the first intimation of his appointment which he saw, or heard of, was the notification of his nomination in the *Government Gazette*. This appeared to him (Mr. Steere) a very peculiar circumstance. Perhaps none of the by-laws had given greater and more universal dissatisfaction than that relative to the scale of fees, which, he contended, should be fixed and regulated by the district boards, and not by the Central Board, who could not be supposed to be acquainted with the circumstances of the parents of children in the various districts of the colony. Another source of dissatisfaction was the regulation in regard to the books to be used in elementary schools during the hours of secular instruction. When, the other day, he moved for a copy of the correspondence that had taken place between the Central Board and the Rev. M. Gibney, with reference to the use of certain religious books in the assisted schools, he was informed by the Colonial Secretary that no correspondence had passed between the board and the rev. gentleman, but that a letter had been addressed by him to one of the members of the board, which letter had been laid on the table of the House; the Colonial Secretary, in laying it there, stating that it was very creditable to the Rev. Mr. Gibney. He (Mr. Steere) was quite willing to allow that the letter was very creditable to the rev. gentleman, who was as honest as he could possibly be in dictating to the Central Board what he would submit to, and what he would not submit to, in regard of the books to be taught. But granting that the letter was creditable to Mr. Gibney, it was by no means creditable for the Central Board to allow themselves to be dictated to. The board appeared to be perfectly well aware that they had an unpleasant task to decide upon what books should be admitted and which should be excluded from the assisted schools; hence, they tried to thrust upon the district boards that task which they ought to have undertaken themselves, to which end they entered into a correspondence with the various local boards throughout the colony. He did not know whether they had received the same reply from all the district boards, but he had reason to believe that from the majority they had received a positive refusal to interfere in the matter. They then found themselves in rather a dilemma; they did not exactly know what to

do, nor how to tackle the subject, so they entered into a sort of compromise with one of the heads of the Roman Catholic Church, to the effect that all objectionable passages in the school books should be expunged. Now, there was a great divergence of opinion as to the signification of that word "expunged." Some said it meant to paste a piece of paper over the obnoxious passages, others maintained that all that was necessary was to draw the pen through the objectionable words, and some actually declined to do either the one or the other. If the Central Board permitted books containing passages distinctive of any religious denomination to be used in the schools, it was a mere farce to instruct the teachers to paste a piece of paper over such passages. What was more likely to excite the natural curiosity of a child, who, on the first opportunity would remove the paper, so as to see what was underneath? This was what actually had occurred in some instances. Not only that, but in one case he was aware that when the members of a district board visited a certain school the objectionable passages had not been expunged at all. The great object of the Act was to exclude everything of a denominational tendency from our schools, and he would ask the House to support him in adopting another by-law altogether, prohibiting the use of such school books as he had alluded to. Another very objectionable by-law was that which provided that in every deed by which a school site is vested in the Central Board there shall be inserted a clause declaring that the land and buildings thereon to which it refers shall be for ever exclusively appropriated for the purposes of a Government school. Legal opinion had been taken as to the interpretation of that by-law, and, strange to say, in the present instance legal opinion was in accordance with common sense. (Laughter.) The construction put upon the clause was that if the words "for ever exclusively" be allowed to remain, the school building could never be used for any other purpose, at any time, than as a Government school. Now, this was most objectionable in some districts where such buildings were required for the purpose of holding Sunday schools, lectures, or public meetings, and, moreover, it would tend materially to prevent voluntary subscriptions being made towards the erection of school buildings. He had carefully perused and examined the whole of the by-laws, and it appeared to him that their general tendency—whether premeditated or not he could not say—was towards promoting denominational teaching in assisted schools; an assertion which he was prepared to prove in going through the by-laws *seriatim*. He

thought he had already said enough to prove that there was just cause why the House should take them into its consideration, with a view to their amendment.

The COLONIAL SECRETARY (Hon. F. P. Barlee) said that when the hon. member gave his notice of motion, he (the Colonial Secretary) had not the slightest idea what his (Mr. Steere's) intention was in regard to it; whether he proposed to amend the by-laws generally, or any particular clause. He now found that the hon. member's object was to find fault with the whole of the by-laws and regulations framed by the Central Board; and with the spirit in which they were framed, as well as generally to find fault with the proceedings of the Central Board. The hon. member further proposed to amend and alter the by-laws; but if he (the Colonial Secretary) rightly interpreted the Act, (and he would appeal to his hon. friend the Attorney General whether he did or not,) it was that the by-laws and regulations should, subject to certain provisions and restrictions, be framed by the Central Board, approved by the Governor, and be laid on the Table of the Legislative Council, and if there be no objection thereto, they became binding; or, in other words, they became law. But if objection thereto was made by the Council, they became, to all intents and purposes, null and void, and it rested with the Central Board, and not with the Legislative Council, to reframe them. He could venture to say this much for the members of the Central Board,—from the time of the first establishment of the board up to the present day, they had, one and all paid their utmost attention to all matters connected with their duties; and in framing these by-laws, as well as in all their proceedings, they had always kept the Act in view, and had never, so far as their knowledge guided them, deviated from the spirit of the letter of the Act. If it could be proved to the contrary, all he could say was, that it had been done unintentionally. It seemed to him that the hon. member in whose name the motion before the House stood could not bring forward any matter for the consideration of the Council without attributing motives. He thought that it would be far better if hon. members wished to bring charges against any public man that they should do it in an honest and straightforward manner, and not in a covert and sneering way. Let them at once say, "Mr. So-and-So is guilty of this and that, and we will do our best to get rid of him." That was a far more English and manly way of doing things than for an hon. member, in a covert, and he might almost say a dishonest manner, to impute improper motives against a public

body of men, to none of whom would anyone acquainted with them attribute a dirty or dishonest action. If the Central Board of Education had been guilty of any of the charges covertly levelled at them, and with the intention attributed to them by the hon. member for Wellington, they would have been guilty of very dishonest and improper conduct. The first person to whom was attributed improper motives was His Excellency himself, in regard of the original appointments of the Central Board. Now, what were the real facts of the case? The Government submitted an Education Bill to the Council: a Bill which, had it been adopted, would, he had no hesitation in saying, have worked far better than the present Act ever will,—in which it was proposed that the members of the Central Board should be elected by the people. His Excellency virtually said, "Do not leave these appointments in my hands; I do not want the power of nominating the members of your Central Board; let the people themselves elect whom they please." But what did the Council do? It distinctly refused to do anything of the kind, and delegated the power to His Excellency, contrary to his own wishes. What did the Governor then do? In his anxiety that the members of the Central Board should be able to answer for their proceedings to the Legislative Council which had framed the Education Act, the provisions of which the board was entrusted to carry out, His Excellency appointed to the Central Board none but members of that House. Could he have done anything more with a view to consult the wishes of the Council? And yet, the hon. member for Wellington must attribute improper motives to His Excellency! The next objection raised by the hon. member was that the regulation of the school fees should be left to the district board, which, of course, could not be done without amending the Act itself, and in bringing this as a charge against the Central Board it proved the hon. member did not understand the Act, or would not understand it. But, he might state that not a single recommendation on the part of one of the district boards, in regard of the scale of fees, so long as it was consonant with the spirit of the Act, but had been acquiesced in. The Central Board had been compelled, under the provisions of the Act, to lay down a certain scale of school fees, and a very difficult task it was, too, to fix such a scale as would exactly meet every particular case. The board, however, after much anxious deliberation, fixed what it considered a fair and reasonable scale, leaving it to the district boards to make any recommendation in regard of a modification of the scale in any

particular instances, all of which recommendations, he would again state, had been complied with. If no fixed scale of fees had been laid down there would not have been that uniformity in regard to the amounts paid for school fees throughout the various districts of the colony which was absolutely necessary in any national system of education. The members of the Central Board, without exception, had cheerfully devoted their time and what talent they were possessed of with the view of carrying out the provisions of the Act, simply with the view of promoting the public good, and now they were to be told by the Council that what they had done had been done with improper motives. The next point alluded to by the hon. member for Wellington was the correspondence called for by himself, as having passed between the Central Board and the Rev. M. Gibney. When that correspondence was asked for, had he (the Colonial Secretary) contented himself with giving a strict official reply, he would merely have answered that no such correspondence had ever taken place; but, in his anxiety to place before the Council every possible information that could be given, in his anxiety that none of the proceedings of the Central Board should be concealed, he had, with the permission of a member of the board who had received a private letter from Mr. Gibney, laid that letter on the Table of the House for the information of the hon. member for Wellington. He (the Colonial Secretary) had stated then and he now reiterated the statement, that the letter was creditable to Mr. Gibney, and the hon. member for Wellington himself had admitted that it was creditable to the rev. gentleman, while at the same time applying very harsh and sneering words as to its not being very creditable to the board to allow themselves to be dictated to. But he would tell the hon. member that the board was not dictated to; he would give a distinct and unqualified denial to any insinuation of the kind. Had the hon. member been acquainted with the real facts of the case, he himself, not even he, would have imputed improper motives in regard to it. The simple fact was this: the Central Board, not wishing to take upon themselves the entire responsibility of saying what books should and should not be admitted into assisted schools consulted, as they had a perfect right to do, the various district boards throughout the colony, from the majority of which very satisfactory replies were received. One or two other boards declined to give any opinion on the subject, simply stating that it was a matter for the decision of the Central Board. The result was that the members of that Board carefully examined every book used in the assisted schools, as well as in

the Government schools, and after the most careful deliberation, certain passages were marked as having an objectionable denominational tendency. When the matter was brought to the notice of the Roman Catholic body they offered no objection to the passages proposed to be expunged. But the hon. member seemed to forget that if Protestants had a right to object to books written by Roman Catholic authors, the Roman Catholics, on the other hand, ought, with equal justice, to be allowed to protest against the use of books written by Protestant authors. If the objections had been made which could have been fairly made by the Roman Catholics, and to which the board must have paid attention, half the books at present taught in the schools of the colony would have to be excluded, and it would have been almost impossible to carry on any system of education, except a purely denominational one. He himself did not believe that there was a single book in use in the Government or assisted schools that could not be objected to as containing passages having a tendency towards religious teaching of a denominational character. It was, of course, the duty of the district boards to see that the passages condemned by the Central Board were effectually expunged. He could not see what more could have been done in the matter, and he had reason to believe that their efforts on behalf of the general public had given satisfaction to the country. When the constitution of the Central Board was taken into consideration, composed as it was of men of various religious persuasions, some of them holding ultra opinions, he thought that their arriving at such a compromise as had been carried out, was highly creditable to them. Had such not been the case, it would have been next door to impossible to have worked the Act at all, or found books that could have been unanimously agreed upon. With reference to by-law 5, relating to the exclusive appropriation of school buildings (the sites of which are vested in the Central Board) for the purpose of the Government school of the locality where they were situated, the Central Board, in all questions of this kind, delegated the appropriation of the school buildings to the district boards when the school hours were over, or at any time when the building was not required for school instruction. The clause merely referred to the exclusive appropriation of the schoolroom, for the purposes mentioned, during the ordinary school hours; at any other time the building, with the authority of the district board, might be appropriated for any other purpose, the local board, by another by-law, being held responsible for any improper appropriation of it. In this, as in all

other cases, the mere details of the system had been entrusted to the district board; all that the Central Board did was to take care that the general principles of the Act were carried out. In every other matter the local boards were invested with powers almost beyond what the Act authorized. Having said this much in explanation he would say no more, but repeat that he felt, and felt very deeply, that a slur had been cast upon a public body of men who had endeavored to perform their duties conscientiously and to the best of their abilities; and though, of course, it was quite competent for the Council, or any hon. member, to point out anything that went wrong in regard of public affairs, he contended that there was a proper way of doing it, without any occasion for imputing personal, dishonorable and improper motives to gentlemen.

Mr. MARMION, as a member of the Central Board of Education, fully endorsed all that had fallen from the hon. the Colonial Secretary, and he believed, and believed it conscientiously and in all sincerity, that every member of that board, without reference to their religious views, or to their position, did their utmost to frame such by-laws as, in their opinion, would be suitable to the requirements of the different districts of the colony. Though, like the hon. the Colonial Secretary, he had been quite ignorant of the course proposed to have been adopted by the hon. member for Wellington when he intimated his intention of bringing the by-laws of the Central Board under the consideration of the House, yet, had he but known that the hon. member reflected the opinions of a certain rev. gentleman, he might perhaps have guessed what particular objections he would have raised. He (Mr. Marmion) found that in all the remarks which had fallen from the hon. member, he simply endorsed the sentiments, conveyed through the medium of the local Press, of a rev. gentleman who—and he regretted in all sincerity to have to say it—had, from the very first introduction of the present educational system, been a perfect firebrand, doing everything he possibly could to prevent its being carried out. He was sorry to find that the hon. member for Wellington reflected the opinion of that hon. gentleman, *in toto*.

Mr. NEWMAN said the Colonial Secretary had several methods of appealing to and confusing the members of the House, but of all the speeches ever uttered by the hon. gentleman the one which had just fallen from him, was the most full of sophistry. He had taken what perhaps might be called the weak point of his assailant's argument, and made a

powerful appeal to the feelings of the House. Denying the motives attributed, he therefore wished to persuade the House that there was no ground for the complaints made. Now, he (Mr. Newman) was not going to impute unworthy motives to anyone, but he contended that if a man did wrong, whether with good or bad motives, he ought to be put right. The whole and sole intention of the present Education Act was a compromise to a certain extent, but not beyond that extent, to the effect that assisted schools should have certain privileges, on the distinct understanding that during the hours of secular instruction no books having a denominational tendency should be used. The same argument applied to one class of schools as well as to the other. With reference to the nomination of the members of the Central Board, it was generally understood by the select committee who had recommended that the members of the board should be nominated by the Governor, instead of being elective, that the members should be selected from among persons residing in Perth or its vicinity, and he had no hesitation in saying that the departure from the direct intention of the select committee, on the part of His Excellency, had caused universal surprise.

The ATTORNEY GENERAL (Hon. R. J. Walcott) said that the House and the country had been warned last year that the former was about to ignite a firebrand that would set the colony ablaze, and the words he had then uttered promised to prove too true. They saw the first signs of it that evening. Hon. members could not open their lips without imputing improper motives. When the present Education Act was under consideration of the House, he had then distinctly warned hon. members that the moment the semblance of religious teaching was introduced into our schools the country would be in a state of agitation and turmoil; that the differences between various denominations would be so great that there would be battle royal whenever and wherever the Act was discussed. His warning words, like the words of Cassandra, had been unheeded, and, as Troy was given up to the flames, so would their Education Act have to be; the whole country, in fact, will be in flames. The hon. member for Wellington had thrown in the first firebrand. As to the by-laws of the Central Board, though not there to defend the members of that board, he contended that the regulations had been drawn out in strict accordance with the provisions of the Act. By-laws were merely directions to carry out an Act of Parliament; they were no laws of themselves; they could not create fresh obligations, and if they did they

were void, *ipso facto*, if contrary to the spirit of the Act itself. The House had put it out of its own power to frame these by-laws, and had delegated the power to the Central Board, who had framed certain regulations in accordance with the spirit of the Act. Those regulations having been approved by the Governor, if not objected to by the Legislature within 30 days after the commencement of the session, would become binding; if objected to, they became null and void, and the duty of framing other by-laws devolved upon the Central Board.

Mr. CAREY suggested the advisability of having all the books now used in our schools placed on the Table of the House, so that hon. members might see for themselves what passages were objectionable and which were innocuous.

Mr. LOGUE moved, as an amendment, that the House do now resolve itself into a Committee of the whole to take the by-laws into consideration.

After some further observations from Mr. BUSSELL and Mr. BROCKMAN,

Motion agreed to.

In Committee.

By-law III.—

Mr. LOGUE said that by-law III prevented the Central Board from granting aid to school buildings to a larger extent than one-third of the total cost. The Council thought the members of the Central Board should not be so tied, as cases might arise where it would be desirable to grant a larger proportion than one-third of the cost.

He then moved that the by-law be struck out.

The COLONIAL SECRETARY (Hon. F. P. Barlee) explained that only £500 was placed at the disposal of the board to aid in the erection of school houses, and that the applications from all parts of the colony were too numerous to allow of more than one-third being given in any case, and even then the majority of applications would have to be refused.

Motion agreed to.

By-law V.—

Mr. STEERE moved that the words "for ever exclusively" be struck out.

Amendment not agreed to.

Motion agreed to.

By-law XIII.—

Mr. STEERE moved to insert at the end of section 13 the words "through the district boards alone."

Amendment not agreed to.

Motion agreed to.

By-law XXIV.—

Mr. STEERE moved to strike out the word "hours" and insert the word "hour" in lieu.

Amendment agreed to.

Motion, as amended, agreed to.

By-law XXXII.—

Mr. LOGUE moved to strike out the word "or," in section 1, and insert "and" in lieu.

Amendment agreed to.

Motion, as amended, agreed to.

By-law XXXVI.—

Mr. STEERE moved to insert the word "sole" between the words "the" and "medium" in section 9.

Amendment not agreed to.

Motion agreed to.

Mr. LOGUE called upon the House to compliment the Central Board on the careful manner in which it had drawn out the by-laws.

The COLONIAL SECRETARY (Hon. F. P. Barlee), on behalf of the Central Board, acknowledged the compliment, and pointed out the very trifling alterations that had been suggested after a very careful consideration of the entire by-laws, adding, that the result proved, if proof was required, how little reason could have animated the hon. member for Wellington in commenting upon the proceedings of the Central Board in the tone and temper he had done, or in imputing to them motives of an improper and dishonorable nature.

It was reported that the by-laws had been considered and approved, with alterations.

The Council adjourned at 3 p.m.

LEGISLATIVE COUNCIL,

Friday, 23rd August, 1872.

Immigration—Retrenchment in Government Expenditure: in committee—Trespass by Live Stock: select committee report—Trespass on Waste Lands of the Crown Bill: first reading—Trespass by Live Stock Bill: first reading—Conservation of Jetties and Wharves Bill: motion for second reading—Scab-in-Sheep Ordinance Amendment Bill: third reading—Public House and Sale of Fermented and Spirituous Liquors Bill: third reading—Estimates: in committee.