

Legislative Assembly,*Thursday, 10th December, 1891.***Destruction of Immature Sandalwood—Address-in-Reply: adjourned debate—Adjournment.****THE SPEAKER** took the chair at 7-30 p.m.**PRAYERS.****DESTRUCTION OF IMMATURE SANDALWOOD.**

MR. PIESSE: I beg to ask the Hon. the Commissioner of Crown Lands, Whether it is the intention of the Government to enforce the provisions of the 46th Vict., No. 3, to prevent the destruction and export of immature sandalwood, by proclaiming certain areas in the South-West Division within which no live or growing sandalwood should be cut or grubbed.

THE COMMISSIONER OF CROWN LANDS (Hon. W. E. Marmion): The Government will be glad to consider this question, and I shall be glad to consult the hon. member for the Williams in connection therewith.

ADDRESS-IN-REPLY.**ADJOURNED DEBATE.**

THE PREMIER (Hon. Sir J. Forrest): Mr. Speaker,—Sir, I rise on this occasion to address a few observations to the House in order to meet the objections which have been raised by some hon. members to the Speech with which His Excellency the Administrator opened Parliament. At the same time I feel that there ought not to be much occasion for it, because, as far as I have been able to gather from the remarks of those who have spoken, not a very great amount of exception has been taken to the action of the Government during the year they have been in office. In saying this I am of course aware that one hon. member—the hon. gentleman representing East Perth—has challenged the Government; but from the remarks of other hon. members I gather that he stands alone, or almost alone, in the exceptions he has taken. The impression left on my mind, at the conclusion of that hon. gentleman's speech, was that it was as unpatriotic an utterance as was ever heard in this

House, and I am sure that hon. members will agree that he did his best to injure the credit of the colony. The hon. member occupies a somewhat peculiar position at the present time. He appears as the constituted leader of the Opposition.

MR. CANNING: No!

THE PREMIER (Hon. Sir J. Forrest): At any rate, whether that be so or not, we on this side of the House must take it that in occupying the position he did last night, he in some sense represents the views of those hon. members seated alongside him, with, of course, the exception of those who have plainly stated that they are not in accord with him. I think, however, that the hon. member will have some trouble in dragging with him my hon. friend the member for Gascoyne. I believe he will find it a pretty heavy work to do so. Now the hon. member for East Perth challenged the Government on the question of the amendment of the Constitution Act; he did not approve of our fiscal policy, and in fact he did not agree with anything the Government had done. It appears to me that he is of opinion that if he were occupying these benches he would be able to manage things a great deal better than we have done; but I take it from the remarks of other hon. members that they are not in accord with him, nor do they think the time ripe for the change the hon. member evidently desires. He must, therefore, be content to wait, and to win his spurs as other hon. members have had to do. As I have said, I might have left the hon. member alone; but he has thought fit to take up the position of leader and attack the Government, and hence it devolves upon us to defend ourselves, and whether it is worth our while is for hon. members to say. Now, firstly, the hon. member says we should have spent a quarter of a million of money on immigration. This, he says, would have been a statesmanlike proceeding. But let me ask him where the money is to come from? I do not suppose even the hon. member is prepared to move for another Loan Bill to provide for the money, and we certainly cannot obtain it from revenue. The hon. member for York, who, I am sorry to see, is not leading the Opposition this session, said that our policy was one of public works, and in stating that he was quite right. Our

object was to attract population, and we were, and still are, of opinion that it is much better to induce people to come here of their own accord than to bring them. If we can find plenty to do for them, those that come here will be much more satisfied than if we brought them here. At the same time we are introducing a judicious selection of farm laborers and domestic servants, and we are carrying out the nominated system of immigration which is in force here. At the present time some 250 farm laborers and domestic servants have been selected, and they are now either on their way, or are near starting, for this colony. Then while, on the one hand, the hon. member for East Perth said that we should have brought in some great scheme of immigration, costing a quarter of a million of money, he, on the other hand, said our financial position was anything but sound, and he contended that if things were looked into we should have nothing to congratulate ourselves upon, because an unsatisfactory state of affairs would be found to exist. In his opinion we should have brought forward some well-considered financial scheme. I do not know what that means; but I presume he meant a Bill to alter the Tariff, and dealing with fiscal matters generally. The Government had this under consideration, but they have not made any announcement of what they intend to do, except by way of a letter which I addressed to a deputation from Fremantle, in which I said that I feared it would not be possible, during the present session, to deal with these matters. I am afraid there is such a thing as trying to do too much, and doing it badly, and it seems to me that this would be the result if we followed the hon. member in this matter. I do not know how the hon. member arrived at the conclusion that our financial position is unsound. He said that we had lavishly spent money all round. I am glad to hear that, because we have been twitted with being too careful and we have been charged with not spending enough. In fact we have been told that we have been hoarding up money instead of spending it as we should do. I am sure, however, that I am in a better position than the hon. member to know the state of our finances, and I can tell the House that they never were in a

sounder condition than they are now. When the time arrives for me to make my Financial Statement, I shall be able to place before hon. members the whole of the facts in connection with the operations of the Government during the past year, and hon. members will then be able to judge for themselves. I now come to another matter which seems to have had a great deal of importance attached to it by the hon. member—the guarantee of £60,000 to the Midland Railway Company. The hon. member labored the question to death. He said the guarantee was illegal, unconstitutional, and that it was a revolution. I could not help thinking when the hon. member was speaking that he seemed to get a considerable amount of enjoyment on account of the difficulties the Company found themselves in. He seemed to be delighted at it, and was evidently glad to be able to attack the Government on it.

MR. CANNING : Is the hon. member in order in attributing motives? It is the duty and privilege of any hon. member to comment, so long as he does so within those bounds which parliamentary usage permit, on the actions of the Government, and I submit that the Hon. the Treasurer has no right to attribute motives.

THE PREMIER (Hon. Sir J. Forrest) : I withdraw any imputation of motives.

THE SPEAKER : I did not hear what the Hon. the Treasurer said.

THE PREMIER (Hon. Sir J. Forrest) : I said the hon. member seemed to take a delight in the difficulties of the Midland Company.

THE SPEAKER : I do not think there is anything in that.

THE PREMIER (Hon. Sir J. Forrest) : The hon. member said that no Government had ever done such a thing before, and he gave us an essay on the rights of Parliament and read to us the ABC of Constitutional practice, which I have no doubt most hon. members already knew, or, if they did not, they can read it for themselves. This Midland Company seemed to be the hon. member's *bête noire*. He seemed to forget that this railway did not lead to a foreign country or to the moon, but was one opening up the most temperate and best portions of this colony, and one

which people generally looked upon as a national undertaking. Of course almost everyone must know that it is technically illegal to spend money without the sanction of Parliament, and the hon. member devoted a considerable amount of time to telling us so. He must have thought that hon. members, some of whom have sat here for 20 years, had no knowledge of the rights of Parliament over public money; but as a matter of fact we have not in this case spent a single penny of public money, and when we have to pay this guarantee we shall soon realise upon our security. At the same time the question of spending money without the sanction of Parliament has been a matter of dispute, and has been discussed for many years, and I believe, as time goes on, more money will be spent by Governments every year without authority than has been the case hitherto. In 1858 Lord Belmore, then Governor of New South Wales, wrote to the Secretary of State asking his advice about the spending of money, as he called it, illegally, without the sanction of Parliament. The Secretary of State replied at first that he should not do so, and then the Ministers of the colony expressed the opinion that he was interfering unduly with local affairs, and the Secretary of State then replied that as in England so in New South Wales occasions of supreme importance might arise which would justify a departure from the ordinary course. Of course when a Government does a thing of this kind they know that they are taking a responsibility, and that they will have to face Parliament on it, and that that body will deal with them if they have not acted in the public interest. We thought we were doing right and we took the responsibility. The same thing is done every day. I would ask the hon. member what about the Excess Bills that come before us every year? I am sorry to say that I shall shortly have to bring down an Excess Bill and ask Parliament to approve of some expenditure during the past year which has not been authorised.

MR. CANNING: That is not in point at all.

THE PREMIER (Hon. Sir J. Forrest): When I introduce that Bill I shall have to explain why we spent the money

without authority, and this year it will be found that some of the items are not even included under the ordinary heads of the Estimates. In that case the House will be exactly in the same position as they are now with regard to this guarantee. If we have not spent the money wisely the House will have an opportunity of saying so, and if our action is not approved we shall have to consider our position. The most astonishing remark made by the hon. member was that he did not consider this railway a matter of any importance to the colony. That statement surprised me very much, because we have all along been accustomed to look upon it as part of a trunk line starting from Albany, then reaching Perth, and going on to Geraldton for the present, but which in time will travel the whole coast-line of the colony. I hope the hon. member, when he meets his constituents at East Perth, will say that he thinks this Midland Railway of no importance. If there was a dissolution, as the hon. gentleman's action would bring about, he would be able to tell the electors that it was a matter of no importance, and he would then probably see the result. I say that it is of importance that the line must be constructed. I would like to inform hon. members of what has been done. One hundred miles of this railway have already been opened for traffic; 138 miles have been ballasted; 145 miles of rails have been laid; and 178 miles of earth done. The total expenditure as certified to by the engineer of the Company (Mr. Stafford) up to the present time has been £515,698. That sum represents work actually done in the colony, rolling stock, and other things in connection with the railway; but it does not include any sums to private individuals or to company mongers—only the actual expenditure incurred in making and equipping the line. I have found out from the contractor to-day that 363 men are employed besides the staff, and that 20 miles of rails have just arrived, which will be laid as soon as possible. There was one argument used by the hon. member for East Perth, and also by the hon. member for the Swan, that if the security was good enough for the Government why was it not for others? That is a very sensible question to ask and

one which requires to be answered. My reply is that there is a great deal more difficulty in getting people to become guarantees for others when they are not acquainted with the circumstances. Strangers who do not know the facts of this concession and the quality of the land, or who perhaps do not know that there is any land, or who do not know the state of the colony, are not so likely to enter into a guarantee as those who do know all the circumstances. And besides that, money required in a hurry is not always so easy to get. It really comes to this, that it is not easy to do business with people ignorant of the position of affairs. The Government are in a different position. They do know the colony; they know the position of the contract, and they know that they have £13,000 already in their hands. We are, therefore, the best to do it; we are the most interested in it; and we know what others do not. We know that before we can lose anything the whole of this Company must collapse. What is our position, then? What would be our position as compared with some private individual in London who had advanced the money? We should lose in cash £47,000. We should have 150 miles of railway and over a million acres of land, because the Company, although it has constructed 150 miles of line, has only been entitled to 6,000 acres of land per mile, the remainder not being handed over until the whole line is complete. I cannot think that that position is a bad one. I think the security pretty good; at any rate the Government thought so. Now let me ask, is it reasonable that this Company will lose all this half million of money it has spent? What would we think of people who after spending that sum abandoned the railway, its rolling stock, and everything belonging to it? Surely there is some means among financial people that will prevent the whole of a half-million expenditure being forfeited? Such a contingency, in my opinion, is a long way off. At any rate, whatever happens they will not let this colony have the benefit of it. And besides this it would be the worst blow this colony could receive if we allowed this railway, constructed and equipped, to revert to the Government. It would injure our credit,

and our name would be a bye-word on the London market. It would be said that Western Australia was a worthless country, which no man should go to, for this Company, after spending half-a-million of money, had let it go. The agreement is now on the table, and hon. members will be able to see whether the Government have taken care to secure themselves against all possibility of loss. Some one has said the Company might not have the power to give this security, as they may already have given it to someone else. In answer to that I may say that the Government have looked into the papers and have taken legal advice, and are satisfied that the security is all safe and sound. It has also been said, both inside and outside this House, that the £13,000 we say that we have in hand is already pledged, and that when I made reference to it at Bunbury my head must not have been in a fit state. I am not aware that that was so, and I only stated there the facts which are borne out by this document before us. But as to this £13,000, which is the £10,000 deposit with accrued interest added, I would like to point out that at the time it was placed in the hands of the Government we had no guarantee that the Company would do anything, and the reason we asked for it was to show that we did not intend to be played with, and that if the work was not gone on with the money would be forfeited. Now what occasion is there at the present time to forfeit the money? The way some people speak of this sum is as if it would do the whole of the work. But what have we as security now? Not £10,000 with accrued interest, but 150 miles of line constructed and equipped and 1,000,000 acres of land quite sufficient guarantee for any Government to have in dealing with any person or company. As to the £13,000, it is pledged to a contingency which can never arise, because before the Government could forfeit that they would have to forfeit the whole railway; but at any rate no question of the forfeiture can arise until February, 1893, which is the date the whole line has to be completed by.

MR. LOTON: Do you mean 1892 or 1893?

THE PREMIER (Hon. Sir J. Forrest): 1893; because up to 1892 they have

only 150 miles to complete, and they have now only 50 more miles to do in the year. Some people seem to be fond of using the word "forfeit." I have heard it said over and over again that the next time the Company do anything, they should forfeit the contract. It is not fair to even whisper such a thing of a Company which has spent half-a-million of money. It is a most extraordinary thing that after these land-grant companies have spent so much, and done so much, they should be looked upon with ill-feeling and jealousy.

MR. SHOLL: Did you say "company" or "companies"?

THE PREMIER (Hon. Sir J. Forrest): "Companies."

MR. SHOLL: The Midland has not been a success.

THE PREMIER (Hon. Sir J. Forrest): We have half-a-million of their money here.

MR. CANNING: No, no! I put the hon. member to the proof of it.

THE PREMIER (Hon. Sir J. Forrest): I say it is an extraordinary thing that throughout the country these land-grant railways are looked upon as doing no good. But we cannot get over the fact that they have opened up this immense territory, and thus put us in communication with the port of Albany, and will, in a short time, place us in communication with Geraldton. For the information of the hon. member for East Perth, I may state that wherever I have been I have been met with congratulations at the action of the Government in the matter, and it is only for the hon. member representing one of the most important districts in the colony to attack us. If any other part of the colony is interested more than another in this work, it is Perth. The Southern Districts, which are only indirectly interested, say that the Government have acted wisely and well; but the hon. member, whose constituents are more directly concerned, has not one word of sympathy for the Company, and he seemed to take a delight that some people in the colony were mixed up with it. I noticed a smile over his face when he wanted to know the names of those gentlemen, so that they might be made public as being men who had lost a lot of money. No desire was expressed by the hon. member

to assist them, and it seemed to me that he gloated over their misfortunes. I do not think I need say any more on this subject except that I am prepared to answer any question about it that may be put. There is nothing underhand about us. Everything is above board and can be seen. There is another matter which has been touched on by most speakers, namely, the question of a change in the Constitution. The hon. member for East Perth was, however, very tame on the subject. He did not say a word about the one-man-one-vote principle or about manhood suffrage; but he went on a small matter—the qualification of members. He did not, he said, want any dissolution. He simply wanted this bill brought in abolishing the qualification and then to allow the House to go on as usual. I may tell the hon. member that, speaking individually and for hon. members on this side of the House, we have no fear of a dissolution. Our seats are safer than that of the hon. member for East Perth. Let me ask, Is the hon. member prepared to meet his constituents and make such an unpatriotic speech to them as he has done in this House?

MR. CANNING: I will resign my seat and contest it with the Hon. the Premier.

THE PREMIER (Hon. Sir J. Forrest): At any rate I state that any change in the Constitution must be followed by a dissolution.

MR. CANNING: No, there is the precedent.

THE PREMIER (Hon. Sir J. Forrest): The hon. member picks out a small insignificant matter which occurred twenty years ago.

MR. CANNING: In a small colony like Victoria.

THE PREMIER (Hon. Sir J. Forrest): A change of constitution requires a dissolution, and the Government are the judges of when a dissolution should take place, and as far as I am advised at the present time, it is not likely that we should hold our seats after a change without an appeal to the country. The hon. member for the Moore, Mr. Randell, referring to the Loan question, said he thought we should have borrowed more, and the hon. member for West Perth said he thought we had managed this

matter badly. But we did all we could, and we had the best advice in London. The Attorney General was on the spot, and the result was as hon. members know. The general opinion in London was that we were particularly fortunate at the time; although I am not prepared to say that if we had asked for half-a-million we should not have got it. We are not our own masters in these matters, and it would not do for us to act contrary to the advice of the directors of the great institution we were doing business with. The Attorney General tried his best to increase the amount, but he was unsuccessful. We had the London and Westminster Bank at our back and we acted on their advice, of course urging our own views as strongly as we could. I do not think it necessary for me now to go into the other items of the speech. We have given our views at some length and have expressed them pretty freely, and my intention to-night was only to touch on those points which had been raised by those speakers who have preceded me. Our duty is to explain anything hon. members wish to know, and we are perfectly willing to do it. I will now only refer to one more matter which has been raised by the hon. member for the Williams, or the DeGrey, about the price of land. An erroneous impression seems to have got abroad that the Government intended to raise the price, but such is not so, and if I had my own way I should reduce it so as to further induce a settlement of the soil. When I was before my constituents I advocated the giving away of land—a principle I have not yet been able to introduce to this House. I may say at once that we do not intend to alter the Regulations at present. We did think of whether it would not be better where we had to enter into competition with others to get power to sell by auction under the conditional purchase clause; but after considering it we thought such a plan might have an opposite effect to that which we desired by reason of its getting abroad that the poor man would have no chance to obtain land in competition with the rich man. I have therefore induced my colleague, the Commissioner of Crown Lands, not to move further in the matter now, and to leave the Regulations as they stand. I omitted, in speaking of the

Midland Railway, to mention a point which my friend the Commissioner of Railways has just reminded me of. It is that the £12,000 a month which we guarantee is to be spent on actual work done in the colony for the month. This will remove the objection of the hon. member for West Perth, who thought that it would be spent on past work. The money will be paid on the certificate of the engineer. These certificates are very elaborate, and are such that they can be checked with the greatest ease. My hon. friend the Commissioner of Railways proposes to send up one of his own officers to make a report on the line, although we have no doubt as to the correctness of the certificates. The Engineer-in-Chief is satisfied, but still it would be better in the interests of the country if we had an independent report. In conclusion I can only say that I thank hon. members for listening to my remarks. I thank them on behalf of myself and colleagues for their support, and I may add that whatever our faults may have been during the past year, we have done our best, and it seems to me that our exertions have not been without reward, judging from the very favorable view that has been taken of our actions in this House.

Question—That an Address be presented—put and passed.

THE PREMIER (Hon. Sir J. Forrest) moved that the following be appointed a committee to draw up the Address:—Messrs. Clarkson, Cookworthy, Parker, Randell and the mover.

MR. PARKER: I have no desire to act on this committee.

THE PREMIER (Hon. Sir J. Forrest): Then I will substitute the name of Mr. Quinlan for that of Mr. Parker.

Question—put and passed.

The committee retired, and brought up the Address (*vide p. 11 ante*).

THE PREMIER (Hon. Sir J. Forrest) moved the adoption of the Address.

MR. CANNING: Having, sir, already expressed my intention of moving an amendment, I now feel it incumbent on me to do so. I therefore move, "That this House desires to express its disapprobation of the course taken by the Government in making or guaranteeing the payment of money to or for the Midland Railway Company, without the

granting of such aid having been recommended by message from the Governor, and thereupon considered and sanctioned by Parliament." The House, sir, is already in possession of the reasons which have led me to adopt this course; but, I think, after what has been said, it is necessary that I should disclaim any wish or intention to embarrass the Government. If Ministers have decided, as I understand they have, to treat this as a want of confidence, I can only say that they are not acting with the best possible taste. They know there is not the slightest danger of any such amendment being carried, and therefore I think they might have accepted an unbiassed expression of opinion with regard to so important a question, without forcing hon. members to give their unreserved and unqualified approval to the action of the Ministry. I do not say that they intend to put such constraint upon hon. members, but if they do treat it in the way it is suggested they will then certainly leave it open for the inference I have referred to to be drawn. I say, sir, it is due to the intelligence of this House that this unconstitutional and illegal proceeding should be placed on record. Before I proceed further I may remark that I expected we should have heard from the Attorney General something like a reasonable argument in reply to the important issues which were raised last night. However, there may be some good reasons why that hon. gentleman has remained silent. The hon. the Treasurer has made some reply, but he has not attempted to give any reason in support of the conduct of the Government on this question. He cited a portion of an extract in regard to the action which was taken in another colony, but of which he only read a portion. I should have thought he would have brought forward many instances in justification of the conduct of the Government; but evidently he has not been able to do so. On such an important constitutional matter as this I think it fair that the House should have the whole of the extract read, so that hon. members may see how it applies. Todd, on "Parliamentary Government," says:—"But while it is the desire of Her Majesty's Government to observe to the utmost

"the principle which establishes ministerial responsibility in the administration of colonial affairs, nevertheless it is always the plain and paramount duty of the Queen's representative to obey the law, and to take care that the authority of the Crown, derived to his ministers through him, is exercised only in conformity with the law. An instance of the strictness with which this principle is maintained by the Imperial Government, and of the serious consequences attending upon any deviation therefrom on the part of a colonial Governor, is afforded in the case of Sir Charles Darling, who was recalled from his post as Governor of Victoria, in 1866, because of his departure from the rule of conduct prescribed by the Queen's Government, of a rigid adherence to law in all affairs of state. Another remarkable and instructive exemplification of the same principle occurred in New South Wales, under the following circumstances: Responsible Government was introduced into New South Wales in 1855. Three years afterwards, the frequent delays which attended the passing of the Estimates gave rise to an irregular practice of permitting public expenditure to be incurred under the authority of the Governor-in-Council, pursuant to votes of credit and resolutions of the Assembly, in anticipation of the passing of Appropriation Acts by the local Parliament. This practice continued to be observed until the appointment of the Earl of Belmore to be Governor, in 1867. No sooner had Lord Belmore assumed the reins of government than he immediately turned his attention to this matter. He perceived the grave objections to the continuance of a practice so unlawful, and was keenly alive to the personal responsibility which he himself incurred by issuing his warrant to authorize expenditure which had not been sanctioned by both branches of the Legislature. He accordingly wrote to the Colonial Secretary (the Duke of Buckingham) for instructions as to whether he was legally and constitutionally competent to exercise a discretionary power, under such circumstances, as had been done by his predecessors in office since 1858. In reply, he was informed that a Go-

"vornor could not legally authorise the
 "expenditure of public money, with-
 "out an Appropriation Act; and that
 "he was bound to refuse to sign a
 "warrant sanctioning any such ex-
 "penditure which had not been author-
 "ised by law. But that, as in England
 "so in New South Wales, occasions
 "of supreme emergency might arise,
 "which would justify a departure from
 "ordinary rules, and wherein, upon the
 "advice and responsibility of his minis-
 "ters, and after a careful consideration
 "of the particular circumstances, the
 "Governor might exercise such an autho-
 "rity. Every case of this kind must be
 "determined on its own merits; but, as a
 "rule, the Secretary of State was of opinion
 "that such irregular expenditure could
 "only be justified, 'first, on the ground of
 "'necessity; or, secondly, on the ground
 "'that it is sure to be subsequently sanc-
 "'tioned,—joined to strong grounds of
 "'expediency, even though short of actual
 "'necessity.' A few months afterwards,
 "Governor Belmore again addresses the
 "Colonial Secretary on this subject, al-
 "leging that the Legislative Council of
 "the colony had taken umbrage at certain
 "unauthorised expenditure which had
 "been avowedly incurred by Government,
 "without an Act of Appropriation; and
 "that the Council had protested against
 "the proceeding, as being 'derogatory to
 "'the privileges of Parliament, and sub-
 "'versive of the constitution.' The Go-
 "vornor explained that, in this instance,
 "the payment had been merely of certain
 "official salaries, in anticipation of the
 "Appropriation Act, the passing of which
 "had been inadvertently delayed by a
 "parliamentary adjournment; and that
 "there had been no intentional infringe-
 "ment of the privileges of the Legislative
 "Council. The Colonial Secretary (Earl
 "Granville), in a despatch dated June
 "16, 1869, pointed out that any such
 "proceeding was at variance with the
 "instructions contained in the foregoing
 "despatch from the Duke of Bucking-
 "ham, and observed that a temporary
 "inconvenience to certain civil servants
 "could not be regarded as 'an unfore-
 "'seen emergency,' or as a case of ex-
 "'pediency that would justify a viola-
 "tion of law." He added that "except
 "in case of absolute and immediate ne-
 "cessity (such, for example, as the pre-

"servation of life), no expenditure of
 "public money should be incurred with-
 "out sanction of law; unless it may be
 "presumed not only that both branches
 "of the legislature will hold the expen-
 "diture itself unobjectionable, but also
 "that they will approve of that expen-
 "diture being made in anticipation of
 "their consent. Upon the Governor
 "communicating this despatch to his
 "Ministers, they sent him in reply a
 "minute which, while explaining the
 "practice heretofore pursued in such
 "cases, was in effect a protest against
 "the instructions issued by Her Majesty's
 "Secretary of State to the Governor, as
 "being an interference, in a matter of
 "local concern, with their responsibility
 "as Ministers of the Crown and represen-
 "tatives of the Parliament and people of
 "New South Wales upon a question hav-
 "ing no relation to Imperial interests.
 "His Excellency forwarded this minute to
 "the Colonial Secretary, who, in a des-
 "patch dated January 7th, 1870, com-
 "mented upon it. Admitting unre-
 "servedly that the matter in hand was
 "a purely local question, Her Majesty's
 "Government were nevertheless anxious
 "that the Governor's conduct should be
 "in conformity with the public will,
 "'when constitutionally ascertained.'
 "That will was authoritatively expressed
 "through two channels,—the Legislature
 "and the Executive Government. The
 "Governor was justified in accepting,
 "as the interpreter of the public will, a
 "Ministry presumed to possess the con-
 "fidence of the Legislature. But, if the
 "law required him to do one thing, and
 "his Ministers recommended him another
 "course, it was his plain duty to obey
 "the law; and it would be idle to object
 "that such obedience was unconstitu-
 "tional, for the Governor is himself a
 "branch of the Legislature. In a case
 "of emergency, it might become neces-
 "sary to overstep the law; but some one
 "must decide whether, in fact, such a
 "contingency had arisen. The Ministry
 "claim that they should determine this
 "question. But, so long as the letter
 "of the law imposes on 'the Gov-
 "ernor' the responsibility of preventing
 "a breach of the law, this duty must be
 "fulfilled by him. The personal respon-
 "sibility of the Governor in no way ab-
 "solves him from attaching great weight

“to the opinions of his Ministers, in respect to fact, law, or expediency.” But “he remains, in the last resort, the judge of his own duty, and is not at liberty, on the advice of his Ministers,” “to commit an act contrary not only to the letter but to the spirit of the law.” Well, sir, this was the only case the hon. the Treasurer was able to bring forward as having the slightest bearing on the issue, and this is a case where Parliament had previously authorised the money, and where the money was part of the ordinary expenditure, but for which on that occasion the usual formalities had not been complied with. And hon. members must be aware that strong expressions of opinion have from time to time been given by successive Secretaries of State that the spending of public money in this way is wholly illegal. The hon. gentleman’s speech to-night seemed to be nothing but a pouring out of the vials of his wrath upon my devoted head. I felt, during its delivery, that I had committed some awful crime. After a time, however, I collected myself and waited to hear some crushing statement to show that I had been talking about matters of which I knew nothing, or to show that the Government was fully justified in all that had been done; but nothing of the kind. With the exception of citing part of an extract he did not advance one reason to overthrow the case I brought forward last night, and I must say that I regret he should have seen fit to so choose his words as to accuse me of showing a fiendish pleasure at the—

THE PREMIER (Hon. Sir J. Forrest): I did not use the word “fiendish.”

MR. CANNING: You said I gloated over the difficulties the Company were in, and that when I referred to those gentlemen who were mixed up with it a smile of delight came over my face.

THE PREMIER (Hon. Sir J. Forrest): It did too.

MR. CANNING: It is put that I had a malignant feeling when I spoke of the persons who were concerned with the Company. It might certainly have been more charitable for the hon. gentleman to have thought that I spoke with a kindly feeling and with a view to showing my sympathy with them. I said I would like to know who the persons were, so that we might form our own conclusions, and even if

necessary that we could afford them some help. I still think it desirable that we should know.

THE PREMIER (Hon. Sir J. Forrest): You cannot know from the Government, because we do not know.

MR. CANNING: If the Government do not, probably someone else does, and we can find out.

MR. A. FORREST: Employ a detective.

MR. CANNING: The House of Assembly is not forced to employ such means as that. This is not a matter that should be treated with levity. It is a question of so much importance that we must proceed—some of us—even if “some of us” consists of a minority of one, to endeavor to gain all the information we possibly can with regard to this proceeding on the part of the Government. The issues which I raised last night may be expressed in three questions, and I think it would have been more respectful to the House had the Government answered them. They were:—(1) Was the action of the Government in dealing with public money, without Parliament having been previously consulted, constitutional? (2) Was such action, the matter not having been submitted first to Parliament in the way and through the channel distinctly and formally prescribed by the Constitution Act, legal? (3) Were the circumstances connected with the matter of such extreme urgency as to justify a departure from constitutional law and usage and the formal provisions of an Act of Parliament? Doubtless hon. members will answer these questions for themselves. I have stated my views, and have entered my protest. Let me say also that if things are to be continued as they have commenced, it will not be long before both the Government and the House flounder deeper and deeper into illegality. To show the Government that I am not actuated by any feelings of malignity let me give them a little counsel and advice. Let them cancel the agreement as well as the guarantee to the Bank and then bring the whole question of aiding the Company before the House, by message from the Governor, in the regular and legal way, so that hon. members may have the opportunity of discussing it in all its bearings. Unless this plan be adopted, when effect comes

to be given to the agreement Ministers may find themselves in a very peculiar position.

The amendment was not seconded.

THE SPEAKER: Hon. members are still at liberty to discuss the Reply.

THE ATTORNEY GENERAL (Hon. S. Burt): I may, perhaps, be allowed to say a few words in reply to the hon. member who has just sat down. I find myself in this embarrassing position: The hon. member for East Perth starts with something he is debarred by the rules of the House from proceeding with, and the motion he makes this evening does not come before us for want of a seconder. I have been waiting for an opportunity to answer the hon. member, but unfortunately I cannot do so because his motion cannot be put to the House. Perhaps, however, hon. members will allow me to say a few words bearing upon the hon. gentleman's remarks. Now in the first place let me say that the hon. member is doing nothing but raising a storm in a teapot. It is all very well to address this Assembly on high points of constitutional law; but I ask the House whether the matter is really not in a nutshell. We know what the law is. We do not dispute the quotations the hon. member has read to us. Perhaps it is as well that we should be reminded that the Government is bound by certain usages and laws with regard to the expenditure of money; although, at the same time, let me say that any Government which make themselves slaves to usages and laws, and loses the substance while going after the shadow, are not worthy of being called a Government. The case of the Midland Railway Company was one of very great importance at this time, and the hon. member has suggested that the action of the Government was unjustifiable. The House may not be aware that this agreement for guaranteeing an advance of money to the Midland Company was made by the Government at a time when the directors of the Company in London were advertising Western Australia throughout England, by setting forth the advantages of settling on their land in this colony, and they were doing this to make the market easier for their financial operations. On the top of all this was about to fall the abandonment of the Company's

enterprise, through inability to raise money by selling their debentures to carry on the work of construction. The money market at that time was absolutely blocked for raising money for any scheme in the colonies, as I know of my own knowledge while visiting London. What would have been the result if this railway scheme had stopped? Being absent from the colony at that time, I was apprehensive that my colleagues might not have the pluck to seize the opportunity for coming to the relief, not of the Midland Railway Company but of Western Australia. There was no risk at all of any money being involved, for the guarantee is tied up by the agreement in such a way as to ensure the completion and equipment of 150 miles of this railway by next February, which is the contract date. Therefore, before the Government can be called upon to find any money whatever, they will have an equipped line of 150 miles. Out of the 6,000 acres of land per mile which the Company are entitled to as progress payment for work completed, the Government get a total of 200,000 acres as security for this advance; and surely it will readily be seen that if this enterprise comes to an end, and the Company go into bankruptcy at the end of February next, the Government will really obtain 150 miles of railway, not for £60,000, but for about £47,000. But probably the money market in February next will be in such a state that the securities which the Government hold will be in a favorable position, and that the Company will be able to proceed with the completion of the line to Geraldton. If the Government had been too nervous to take the responsibility required at the moment, they would not have been worthy to hold office, and I was very glad to hear that the Government had taken it. Hon. members have only to satisfy themselves that this guarantee, this assistance, was really required; and if that is so, they need not waste time in considering whether the guarantee given by the Government was constitutional or illegal. If we had permitted a disaster to happen, while looking about for the law, we certainly should not have been worthy of the confidence of either this House or the country. Was this a case of urgent necessity? If so, we need go

no further and commence to split hairs about the legality or otherwise of what was done. The Government thought it was such a case. They took the necessary action and accepted the responsibility, and to-night we abide the decision of the House on it. As to the so-called illegality about our having spent money without the sanction of Parliament, we have spent no money at all, although, to listen to the hon. member, a stranger would think that we had spent £60,000.

MR. CANNING: It is the same thing.

THE ATTORNEY GENERAL (Hon. S. Burt): We are giving a guarantee. If the Company does not pay it, we shall have to, but before we do that we shall have the means without asking this House for a sixpence. Whether the value of the security is what we say it is is another matter; but we do say we have done nothing that will oblige us to come to this House for anything. We have guaranteed the money, and if the time ever comes to pay it, we will be able to put our hands on the money to do it with. Therefore, as I have said, the hon. member has done nothing other than raise a "storm in a teapot." I do not blame the hon. member. I rather rejoice that there is someone who will keep an eye on the Government, and give us some expectation that whenever we do anything like this we shall be brought to book for it. I am glad the hon. member has raised the question, although he has made too much of it, as is shown by the fact that he has not been able to find a seconder for his motion. The hon. member too has used such large language. His saying that the collective wisdom of the great British nation had condemned such a thing as this; that it was a violation of our Constitution, and so on, was a mere exaggeration of this small issue; for if the Government had committed a serious breach of the Constitution, not only would the great British nation have condemned it, but a nation greater than Great Britain—Western Australia—would condemn it and the Government also. It has been said that Ministers should not make whips to scourge their own backs; but about what? About a thing which every member of this House knows we were justified in doing. I say it for the last time: the question is whether the circumstances

were such as to warrant the Government in doing as they did. If that be decided in the affirmative there need be nothing more about it. Of course we cannot say what will be the outcome of all this; but as far as practical men could judge, as we had to at the time the occasion arose, and as far as we can judge now, we see no risk of any kind whatever.

Question—That the Address be adopted—put and passed.

ADJOURNMENT.

The House adjourned at 9:20 p.m.

Legislative Council,

Friday, 11th December, 1891.

Sessional Committees—Police Bill: second reading—Adjournment.

THE PRESIDENT (Sir T. Cockburn-Campbell, Bart.) took the chair at 3 o'clock, p.m.

PRAYERS.

SESSIONAL COMMITTEES.

The usual Sessional Committees were appointed, on the motion of the Hon. the COLONIAL SECRETARY.

On the motion for the appointment of a Library Committee,

THE HON. J. W. HACKETT asked whether some rules were not agreed to by committees representing the Legislative Council and the Legislative Assembly.

THE PRESIDENT said there had been a conference on the subject; but he could not furnish particulars of what had been done at that moment.

THE HON. J. W. HACKETT said he would like to know the conditions under which members of the Legislative Council could use the library.