

reap all the benefits from it which they anticipate, then he would take the other side, and quote his speeches to prove that he expected such would be the result. It would be much better for his consistency of character if he took one straight forward course, and arranged himself on the one side or the other. He stated this morning that the Government when they came into power repudiated the Loan and Purchase Bills, but in as polite a manner as possible I wish to counteract that assertion. I honestly admit I opposed the Loan Bill, and will from time to time repeat such bills, believing we should rely upon our own resources; but the Government as a body did not throw cold water on that measure. As regards the other bill, the purchase of Lot 54 and Siskak Estate is the strongest proof that they did not repudiate the Loan Purchase Bill. I may now say I have no objection to the House going into Committee on this question, and I debating on it for a week, to give that hon. member an opportunity of convincing the House of the necessity of passing a Bill such as he desires; and of satisfying them that it will receive the Royal assent without a suspending clause, as if it does, that the Courts here will act upon it afterward. It would have been better for the hon. member, however, to have kept back some of the arguments on this subject which he employed when on the debate on the Address, till the present occasion, and then they would have had more appearance of originality.

Hon. Mr. HENSLEY.—I have not yet, Mr. Speaker expressed my opinion on this question, in order that I might gain as much information as possible on the subject as possible. I have not yet had an opportunity to express my views on the Land Question, but I have read the speeches made by hon. members on the subject in an earlier part of the Session. I feel that I cannot give a silent vote on this matter, not only on account of the petitions laid before the House, but also on account of the capacity in which I acted, as a professional man, in relation to the Land Question last year. Had I been present when this matter was debated before, and been asked to express an opinion in reference to the Land Commission, I would have said I approved of it highly; and though politicians do not frequently get credit for sincerity, still I have no reason to change my views in reference to that Commission. A good deal has been said about the keeping back of the bill passed to give effect to the Land Commission; but I have no wish to charge the Government with having done so for any sinister purpose. At the same time I think the Government is to blame inasmuch as they did not step out of the ordinary course—knowing as they did that the Duke of Newcastle was coming out to these Colonies early in the summer—and forward the bill with the request that it might receive immediate attention; and if that request had been favorably entertained, parties would have had an opportunity of pointing out to the Government, that it was imprudent in the Government to allow the Commission to come here before they knew the facts of the bill. It is to no purpose to say that it was of no consequence whether it had passed or not, for had that Act gone into operation it is evident it would have been much more extensive than if it had been disallowed; in the former case their investigation would have extended to the whole Island, whilst in the latter, it is obvious that they would have been limited simply to the Lands of those who signed the reference. Under these circumstances then, I think they should not have been allowed to have opened their Court here till the facts of the bill were known. It would be absurd to say that they should come here, make investigations, and then give an award which would neither be confirmed by a Statute nor be within the scope of the question referred to them. The Commissioners came, however, and the Government called upon me, for the purpose of getting me to appear at the Court on behalf of the tenantry; and after conferring with the Leader of the Government—Mr. Palmer—I complied. I do not mean to keep back anything in relation to the Commission favorable or unfavorable to the Government, but shall make an impartial statement. Before I accepted the offer of the Government, I wrote a letter to the Leader, saying, I had been requested by the Government to appear before the Commission on behalf of the tenantry, but that I could not assume that responsibility without written instructions from the Government, and I refused to serve till I received them. The letter I wrote to Mr. Palmer was as follows:—

CHARLOTTETOWN, August 31st, 1860.
Dear Sir:
When you called upon me yesterday to offer me a Retainer on behalf of the Government to act as a Counsel for the Tenantry before the Commissioners, appointed to carry out the provisions of the Statute of last Session relating to the Land question, I requested from you time for consideration of the proposition before accepting the Retainer. A feeling of the responsibility which must necessarily attach to the position of a Counsel for the Tenantry on this occasion, induced me to make this request, without having any such body of Retainer. I have since referred to the Statute in question, and observe that a decision of the Commissioners under it will probably be binding and conclusive on the whole Tenantry of this Island on such matters connected with the general question of the Land Tenures as may be submitted to them.
Now the Tenantry are not a constituted body, and I can hardly venture (without having some such body of Retainer for instructions), to come forward as the exponent of the views and wishes and rights of those with whom I have had little or no communication whatever on the subject of the Commission, much less, on my own unassisted responsibility, to submit any point to the judgment of the Commissioners, when their decision upon it might more or less affect every Tenant in the Island.
The House of Assembly may, perhaps, for this purpose, be regarded as the representatives of the Tenantry, and they again are referred to in the Statute, who—being the introducers of the Statute in question—must be presumed to be in a position to know the extent of the powers intended to be conferred on the Commissioners, and the points to be brought under their notice.
Therefore, whilst I am willing to accept the Retainer offered by you, and desire, to the best of my ability, to promote the interests of the Tenantry on this occasion, it must be on the clear understanding that I am retained on behalf of the Government, and am so far to consider them as my Clients as to be entitled to look to and receive from them precise written instructions as to the course to be pursued by me on this occasion, and the matters to be submitted from time to time to the Commissioners, and the various points on which their Award or Decision is to be sought.
This being a matter of some importance, I have to request the favor of a written answer.
I am, dear Sir,
Yours truly,
JOSEPH HENSLEY.

The Hon. Edward Palmer.
To this letter I received the following reply:—
CHARLOTTETOWN, Sept. 2d, 1860.
Dear Sir:
I quite perceive the necessity you have felt in expressing yourself as you have done in your letter of Friday, in answer to my personal application to engage your professional services, in conjunction with Mr. Thomson, as Counsel for the Tenantry before the Land Commissioners.
I agree with you, that, in consequence of the Tenantry not being a constituted body, it would be difficult for you to become the exponent of their views, wishes, &c., without having some person to refer to for instructions, who fully represented their common interests. The same difficulty would, of course, intervene, if the Government attempted to act or to be guided by the opinions or views of the Tenantry without their being any person properly constituted to represent those opinions or views; and they, therefore, feel bound by the opinion of the House of Assembly on the subject, as set forth in its address to the Queen, passed on the 9th May, 1859, as well as by what is expressed in the correspondence on the subject of that address which ensued between the Colonial Minister and the Lieut. Governor of this Island, and which is published in the House of Assembly Journals of the last Session. As occasion requires, I shall be happy to communicate to you such written instructions as the Government may deem necessary for your guidance on those questions which they conceive are within the scope of the jurisdiction conferred on the Commissioners. In the meantime, I beg you will, at your earliest convenience, confer with Mr. Thomson, and endeavor to put into some prominent shape those views which you think it will be most to the interest of the Tenantry to advance.
I remain, dear Sir,
Very truly yours,
EDWARD PALMER.

Hon. Joseph Hensley.
After receipt of this letter I agreed to act, and with Mr. Thomson immediately called upon the Commissioners. The Commissioners on that occasion stated to Mr. Thomson and myself that they conceived they derived their powers from the Statute, and accordingly they called our attention to its wording, and remarked that they thought it gave them full power to deal with all parties. I was aware at the time, though I had not made any particular inquiries, that the Act had not as yet received the Royal assent. I afterwards mentioned to one of the Government, that my confusion might arise if the Commission act, and the Act to give effect to their decision should be disallowed. He replied by saying that on a decision of the Duke of Newcastle about to visit the Colonies the sub-

ject could not receive that attention at home which it would if he were present; but, notwithstanding, he felt assured that it would receive the Royal assent. The Court was opened, and, as is stated in the Report, I appeared for the Government on behalf of the tenantry.

[Mr. Hensley then read an extract from the Report, of his remarks made at the opening of the Commissioners' Court respecting the brief which he and Mr. Thomson held from the Government.]
Though a delicate matter, I must acknowledge that I think the Government showed a good deal of discretion in selecting one not belonging to their political party, to advocate the interests of the tenantry before the Commission. Another question has arisen, respecting the information conveyed to Mr. Thomson and myself in relation to the subjects which we brought to the notice of the Commission. It has been stated that information was kept back, but I think the parties stating so are in error. I may state that in any instance in which I applied for information, it was not withheld; and I feel it to be my duty to make this statement publicly, before the House.

Hon. Mr. WHELAN.—The information was not volunteered.
Hon. Mr. HENSLEY.—I don't know about that, all I say is that I received that for which I asked. With respect to the questions brought before the Commission, I may state that they entered into all points in dispute between proprietors and tenants. At the close of their Court we know they made a recommendation concerning one year's rent, and, since that period the Bill which was to give effect to their award has been disallowed. The question now arises—What action should be taken in reference to arrears of rent?—But, before passing to that question I may say that in my opinion it was impossible the Royal assent would be given to the bill; for I state fearlessly that I think no bill ever passed this Legislature which interfered so plainly with the rights of property. It differed from the Tenants' Compensation bill, which was limited to one particular point, and that Bill did not contemplate taking away the rights of the proprietor. It was limited to compelling him to give compensation to a tenant for his improvements, and there was a right of appeal to the Supreme Court. But, on taking up this bill, for the confirmation of the award, I find that certain parties had agreed to a reference; and it goes on to state that it shall bind every one who owns an acre of land; and it was to bind not only those who signed the reference but also all who owned Township lands. This, therefore, was a general Act, and there was no right of appeal to any tribunal; therefore, I say, I am not at all surprised it did not receive the Royal Assent. At the same time I am satisfied that the Bill was brought in by the Government in accordance, as they thought, with the suggestions of the Duke of Newcastle. It is now a question whether the House will go into Committee and base some measure on the petitions in regard to arrears of rent. I think the only Act which could have been consistently passed last year would have been one to suspend the collection of arrears of rent pending the Commission. That, however, was not done, and the question is—shall it be done now? Had the Commissioners possessed power to have suspended their collection, I believe they would have issued an order accordingly. In passing a Bill, I do not see, under the circumstances, and with any prospect of its passing in England, that we can go further than to make it affect those who signed the reference to the Commission. I think a Bill of this nature would not interfere with the Commissioners, but would rather preserve for them the subject matter of their Commission; and I do not think any proprietor could feel himself aggrieved were such a Bill passed. I am of opinion that the Commissioners when they give in their Report, will go into all questions; and as they are Lawyers and Legislators, and gentlemen of high standing, that Report will be of great value, as containing their views on the questions which came under their notice. I think, too, if they do so, that it will have the effect of compelling those proprietors who did not assent to the arbitration to agree to it as well as those who did. (Hear.) That is the point to which my hopes tend. I shall wait patiently for the award, and whatever it be I trust it will have the effect of forever terminating disputes past and present.

Hon. Mr. LONGWORTH.—I do not rise, Mr. Speaker, to find fault with the speech of the hon. member from King's County, which was very clear, and contained a fair and candid statement of matters connected with the Land Commission. I think it showed that the Government acted in such a manner as would render their conduct unimpeachable in reference to the whole affair concerning the Land Commission. If the hon. member would reflect for a moment, however, I think he would perceive that there is no parity of reasoning between the Act relating to the Commission, passed last year, and the Tenants' Compensation Bill, for the one was in accordance with the instructions received from the Imperial Government, and the other merely originated in this House, on the supposition it had power to pass a law of that kind. The House assumed that it had the inherent right to pass a law without the consent of the parties to be bound by it, and it was on the ground that they had no such right that the Rent Bill was disallowed. But, in reference to the Bill passed last Session it was different. Assent was given by the Imperial Government through Her Majesty's Secretary of State to principles and proposals made to this Government, in reference to the land tenures of this Island, and certain parties assented to the principles embodied in Resolutions passed by this House in regard to the same subject;—the questions in dispute between landlord and tenant by these parties were referred to a tribunal, to be decided by a body of gentlemen mutually chosen to act as arbitrators, so there was a great difference between the two cases. In the latter case the House had the assent of the parties to be affected by the Bill. The hon. and learned member thinks the Bill should have been sent Home at an earlier period, but I think that if it had it would not have made the least difference, and that it would not have influenced the decision of Her Majesty's Government in the slightest degree. If not received, then the Commission would not have been in a better or in a worse position than at present? To my mind it was a fortunate circumstance, and an argument in favor of the Bill not going Home. In the recent Despatch of the Duke, he does not find fault with the action of the Commission; and they went into all matters affecting the rights of different parties, and I feel persuaded the result of their investigations will have a beneficial effect, and promote the interests of this Colony. 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