Home-manufacture of spirits, it was different with Tobacco; to make it, a large number of hands had to be fed and clothed, which the manufacture of spirits did not require.

Mr. COLES said, a number of hands were required in brewing, besides expensive machinery, and large quantities of fuel. He did not think, the Americans would hesitate putting a duty on our grain, when made into spirits. We must either take off some of the duty on manufactured tobacco imported, or put it on the Home-manufactured.

Mr. COOPER. The present object of the House was to raise money, he would vote for retaining the duty of 4d and putting 2d on home-manufactured.

Mr. MUIRHEAD moved that 3d be imposed on imported Tobacco.

Mr. COLES thought, that there was a loss on the stems.

Mr. LONGWORTH. The loss on stems is about one-third to one-fourth.

Mr. COLES moved that Home-manufactured pay 1½d, which was carried.

Mr. DOUSE presented a petition from inhabitants of Belfast, Murray Harbor Road, &c., praying for a Court of Escheat, and stating their dissatisfaction with the Act for purchasing Lands. Referred to Committee on the Land Question.

A Bill from the Legislative Council, intituled an Act in addition to an Act relating to the office of Surrogate, and the granting of letters of admininistration, was read a first time.

THURSDAY, March 29.

After the order of the day had been gone into, Mr. Cooper moved, that the Speaker leave the Chair, and Mr. M'Donald be Chairman of Committee of the whole House. Mr. Coles moved in amendment, that Mr. Haviland take the Chair.

Mr. HAVILAND objected as unfair to place him, one of the minority in the Chair, on a question of this importance.

Mr. COLES thought Mr. Haviland from his long experience and parliamentary knowledge, best suited to take the Chair on the occasion, Mr. M'Donald was a young member.

Mr. HAVILAND was much obliged for the compliment, but stated his unwillingness to take the Chair, as he wished to speak to the question.

Mr. COLES urged the question, which being put was carried in the affirmative.

One of the petitions being read, praying for a Court of Escheat.

Mr. COOPER rose and said, anything from him would be of little use, unless he shewed authorities, he would therefore first shew the condition of Forfeiture.

"And the said Grantees further bind and oblige themselves, their heirs and assigns, to settle the said Lot or Township hereby granted, within Ten Years from the date hereof, with Protestant settlers, in the proportion of one person to every Two Hundred acres—said Protestant settlers to be introduced from such parts of Europe as are not within His Majesty's dominions, or to be such persons as have resided within His Majesty's dominions of America, two years antecedent to the date hereof. *And if the said Grantees shall not settle one third of the said Lot*, or Township in proportion aforesaid, within four years from the date hereof, then the whole of the said Lot or Township shall become forfeited to His Majesty, his heirs and successors, and this grant shall be void and of none effect."

Sir Alexander quoted a despatch of Lord Glenelg's to show that as far back as the year 1787, the Inhabitants have sought the enforcement of the forfeiture, the settlement of the Tenantry in fee simple.

"This impression would seem to have originated as far back as the year 1787, and it may have derived some confirmation from the course pursued with regard to the forfeited Lots Nos. 15 & 55."

About the year 1800 and up to 1802 the Ministers conceded that point, which we have in Governor Fanning's Speech.

"I have the satisfaction to inform you, from the highest authority, that the public affairs of this Island have already attracted the attention, and been brought under the consideration of His Majesty's Ministers, in a manner highly favourable to the late humble and dutiful representations, made on behalf of the inhabitants, respecting the many large, unsettled, and uncultivated tracts of land, in this valuable Island."

A Bill was passed for the purpose of revisting the forfeited Lands in the Crown, 2d April, 1803. About this time the Governor and others sought many Townships for small sums, and they destroyed the Act which had the Royal assent.

[*From proceedings of the House of Assembly* 1805.]

"Resolved, That the proceedings of the Legislature of this Island, in passing the two Acts, namely, for enforcing the due and regular payment of Quit Rents—and for reinvesting His Majesty with the unsettled Lands of this Island—were in direct conformity with His Majesty's Royal Pleasure, signified by His Secretary of State, to the late Lieutenant Governor, General Fanning."

"Resolved, That it appears to this Committee, and that they have the strongest reason to believe, that the Royal Assent to the said Act for reinvesting His Majesty with such Lands as are or may be liable to forfeiture within this island, has been graciously afforded by His Majesty."

This agitation continued until the year 1806.

On Tuesday, 2d December, 1806.—"Ordered, on motion of Mr. Holland, that a Committee be appointed to draw up the heads of a new Bill, for the effectually revesting in His Majesty such Lands in this Island as are liable to Escheat."

The proceedings appear to have been quashed as the Committee made no report. In the year 1816 it appears, that the Governor made proclamation for the regular payment of Quit rent.

"Whereas by my Proclamation, issued on the First day of October, 1816, it was notified that it was intended on the part of the Crown, to fix a Scale for future payment of Quit Rent, would commence on the 25th June in that year, and that the first half-yearly payment would be demanded on the 25th day of December following."

"The further pleasure of His Royal Highness is, that the Proprietors of Township Lands shall be released from the obligation imposed by their original Grants of settling them with Foreign Protestants, provided that within Ten years from December 1816, the Lands shall have been settled with other persons in the proportions specified in their original Grants.',

About the same time Townships (15) and (55) were revested in the Crown by Escheats.

In the year 1825, Dr. McAulay moved for leave to bring in a petition from upwards of eight hundred inhabitants of this Island, praying that this House would address his Majesty, humbly to request, that his Majesty would be graciously pleased not to grant any furthur indulgence to the Proprietors of Townships to settle the same, than as already intimated by proclamation in the year 1816. Leave being granted, the said petition was read and ordered to lie on the Table.

Dr. M'Aulay, Chairman of the committee reported, that this committee considers the interference of the House with the measures of his Majesty respecting the enforcing or remitting the conditions of the Township grants in this Island, as at present premature.

The report of the Committee shows that the House considered any proceedings on the Land question premature. The land question was again revived in the year 1832, and in the year 1833, the census was taken showing the No. of settlers in fee, and the No. of Tenants and Squatters upon each Township. Township 17 had 99, No. 28 had 94, settlers in fee simple.

The Attorney and Solicitor general were examined, touching the power of the Lieutenant Governor, to appoint a Court of Escheats and forfeitures.

Q. Is it your opinion that the Representative of His Majesty is competent to appoint a Court of Escheats in this Colony?

A. I am of opinion that it is competent for the Representative of His Majesty in this Colony, to appoint a Commissioner or Commissioners of Escheats within the same.

Q. Were such Courts appointed, would it be necessary to regulate their proceedings by a law of the island?

A. If such Courts were established, I am of opinion that it would be proper and necessary to regulate their practice and proceedings by law, and particularly to define the period of notice to be given, and how given, before proceeding to take an Iinquest of Office for the purpose of revesting in His Majesty any Lands within this Island; and such law should also limit and fix a period for parties to come in and traverse any Inquest so taken.

Q. Is it your opinion that the Representative of His Majesty is competent to appoint Courts of Escheat in this Island?

A. Unquestionably.

Q. Were such Courts appointed, would it be necessary to regulate their proceedings by a Law of the Island?

A. It would not be absolutely necessary, it being the prerogative of the Crown to appoint all Courts of Justice, and to regulate their proceedings, provided they are conformable to the known laws of the Island; but it would be highly advisable, inasmuch as a regular course as well of re-investing the Crown with the Lands liable to Escheat, as to point out the mode in which those who think themselves aggrieved may traverse the Inquisition.

In 1838, the Lieut. Governor submitted to the House of Assembly, a correspondence between the Colonial office, and Sir Charles Saxton conveying the following information.

In regard to the second Query which you have submitted, I have to inform you, that His Majesty's Government connot undertake to make a fresh Grant to Proprietors redeeming their Quit Rents.

The last point upon which you desire information is the mode in which parties desirous of effecting a commutation of their Quit Rents should proceed, in order to effect that object. Upon this subject, I have to refer you to the authorities within the Colony, by whom the details of the plan will be arranged, and to whom the commutation money should be paid.

This dispatch of Earl Grey, 12th Feb, 1851, will leave more than one interpretation.

Contrast the Despatch of Earl Grey with the report of the Earl of Durham, who was sent to British North America to report the evils which existed in the governments of the several Colonies.

One of the most remarkable instances of evils resulting from profuse grants of land is to be found in Prince Edward's Island. Nearly the whole of the island (about 1, 400, 000 acres) was alienated in one day, in very large grants, chiefly to absentees, and upon conditions which have been wholly disregarded. The extreme improvidence which dictated these grants is obvious; the neglect of the Government as to enforcing the conditions of the grants, in spite of the constant efforts of the people and the legislature to force upon its attention the evils under which they laboured, is not less so. The great bulk of the island is still possessed by absentees, who hold it as a sort of reversionary interest, which requires no present attention, but may become valuable some day or other through the growing wants of the inhabitants. But in the mean time, the inhabitants are subjected to the greatest inconvenience, nay, to the most serious injury, from the state of property in land. The absent proprietors neither improve the land, nor will let others improve it. They retain the land, and keep it in a state of wilderness.

To understand the rights of property in wild Lands in a New Country, I shall quote from the highest Law authorities.

"And the art of agriculture, by a regular connexion and consequence, introduced and established the idea of a more permanent property in the soil, than had hitherto been received and adopted. It was clear that the earth would not produce her fruits in sufficient quantities, without the assistance of tillage: but who would be at the pains of tilling it, if another might watch an opportunity to seize upon and enjoy the product of his industry, art, and labour?

The only question remaining is, how this property became actually vested: or what it is that gave a man an exclusive right to retain in a permament manner that specific *land*, which before belonged generally to every body, but particularly to nobody. And, as we before observed, that occupancy gave the right to the temporary *use* of the soil, so it is agreed upon all hands, that occupancy gave also the original right to the permanent property in the *substance* of the earth itself; which excludes every one else but the owner from the use of it. There is indeed some difference among the writers on natural law, concerning the reason why occupancy should convey the right, and invest one with this abselute property; Grotius and Puffendorf insisting that this right of occupancy is founded on a tacit and implied assent of mankind the first occupant should become the owner; and Barbeyrac, Titius, Mr. Locke, and others, holding, that there is no such implied assent, neither is it necessary that there should be; for that the very act of occupancy, alone, being a degree of bodily labour, is, from a principle of natural justice, without any consent or compact, sufficient of itself to gain a title."—*Blackstone's Commentaries.*

Mr. Locke says, "that the labour of a man's body and the work of his hands, we may say are properly his. Whatsoever then he removes out of the state that nature hath provided and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property." (On Gov. c. 5.

"This universal principle we find well described in the Laws of Menu, Son of Brahma, "Sages who know former times, pronounce cultivated land to be the property of him who cut away the wood, or who cleared and tilled it; and the antelope, of the first hunter, who mortally wounded it." Sir Wm. Jones, 341.

In taking a review of the Extracts which I have read, I may remark, that wherever the royal assent is given to any acts or document, it is given in council, and will be found upon the most close enquiry, to be just and equitable. But whenever we find, that Ministers or Governors have made use of the name of the Sovereign to serve one party, and injure others, all such acts are contrary to the royal intentions, and in opposition to good government.

By the conditions of the Grants, the Grantees were to settle their Grants within four years, with Foreigners, or the Grants were void and of no effect.

Aliens could not be Freeholders, and to place British subjects in the position of aliens, was to deprive British subjects of their birth-right; but this was not intended by the grants, wherein it is made plain, that if the Grants were not settled with foreigners, within four years, the grants were void, and the lands were to revert to the Crown; this is the express act and order from the Sovereign, and if it had been obeyed, or acted upon, British subjects would have obtained land directly from the Crown.

The first petition of the people, for an Escheat of the forfeited lands, commenced in the year 1787, and it appears to have been followed up, until their applications received the favorable consideration of this Home Government, in the year 1802, when instructions were given to the Governor here, that the forfeited Lands should be revested in the Crown.

In the year 1838, Lord Glenelg signified, that the government could not make a new grant, and consequently could not alter the conditions of the first grants by any indulgence. In the year 1839, the Earl of Durham the Governor General of this Island, gave in his report to the Queen, to show, that to resume the forfeited grants was not only legally justifiable; but the only way to relieve the people from the evils, the grants have inflicted. And according to the purchase Bill, which received the royal assent lately; it is enacted, that the government shall not purchase any lands, until the title has undergone an investigation, and it was the opinion of the Crown Law Officers in the year 1832, that the Governor had full power, to constitute a court of Escheats and forfeitures, to investigate the titles of land liable to forfeiture. This is the first side of the case which is perfectly in accordance with royal intentions, and now for the other side of the case which is contrary to the Royal intentions. When the people were applying to the Home Government, for an Escheat of the forfeited Lands, between the years 1787 and 1802, they in their innocence believed, they had the Governor and the Colonial authorities on their side; but they were greatly deceived, for when an Escheat was apparently on the point of being granted, it reduced the value of the Grantees' claims to a mere trifle, and while the Colonial authorities and leading men in the Island, appeared to go with the people for an Escheat, they were negociating with such of the Grantees (as were not in the secret) for their Townships, and when they, the colonial authorities, had a sufficient number of Townships in their own hands, the Bills which the legislature had passed in the year 1803, with the Royal assent, which was to reinvest the Crown with the forfeited Lands, were destroyed after they were returned to the Island, it was said, by the Governor himself, General Fanning, and by such means British subjects were deprived of their birth right, by conspirators. Working men wanted land, and they had no other way to obtain land, but as aliens, to become tenants, but as the people were dissatisfied with the Colonial authorities, and new proprietors, it became necessary for them to remove the blame from themselves upon Ministers, and accordingly the Governor obtained dispatches from the Colonial office and made proclamation in the year 1818, giving the grantees indulgence for ten years, to settle their grants with any persons; but although the Governor gave indulgence to some of the grantees, he did not give it to all, and although he bound the Tenantry, he did not bind himself, for about the same time the indulgence was proclaimed, he escheated two Townships, to give grants of Land, to his family and dependants, for them to sell again to working men. I believe the dispatches from Ministers have been sought for by the colonial authorities, and proprietors, to discourage all application for an Escheat of the forfeited Lands, and Minister's dispatches in general, will bear two or three constructions, and although they have discouraged an Escheat, they have never said, that we are not intitled to it. Earl Grey, in his dispatch says, he is bound to adhere to the *decisions* repeatedly given by his predecessors; but no *decision* has been given: a decision in a case, where the liberty and property of fifty or sixty thousand people are at stake, must be settled by higher authorities than a Minister's dispatch. Now, if the first side of the case is consistent with the British constitution, and honorable to the sovereign, the latter is quite the reverse. By the first, British subjects would have retained their birth-right, and their freedon, and would have obtained land from government at a moderate price to be paid into the Treasury, for public improvement. By the latter, British subjects have been treated as aliens, and made bondsmen to defaulters, who gained £100 a man for deceiving him; or one pound an acre for the land he had forfeited, which sums went to reward impostors, and enable them to corrupt a party to serve them; if the first was the advice of faithful public servants to the sovereign, the latter is the actions and language of traitors. I need not quote the charter, which is printed up behind the chair. For I think it will be allowed, that in the compact between the sovereign and the subjects, that the sovereign shall not treat the subjects as aliens, nor authorize one subject to make bondsmen of other subjects, so as to deprive them of their property, neither shall the sovereign authorize any Minister or Governor to dig a pit, or lay a snare for working men coming into this Island, which they, as a matter of course, must fall into and be deprived of the improvement they make upon the land, nor shall any servant of the Crown forbid the laws to be put in force, which law would release British subjects from bondage and restore them to their rights, of which they have been deprived; such acts when perpetrated are not to be imputed to the sovereign, they are the acts of traitors, who disobey and dishonor the sovereign, and bring the imperial government into disrepute.

When persons having no other claim to the Land but a forfeited grant, and no authority in law or equity to demand rent but a corrupt Colonial Government, to suspend the Law by an unconstitutional dispatch from Ministers; so that the title of the Land should not be tried, it became an easy matter for impostors to deceive ignorant labouring men, and make them believe that they were the owners of the Land and had an indulgence from the sovereign to make any persons attorn to them. But this is not the truth, it is quite the reverse; it is a deliberate falshood with a fraudulent intent to deprive British subjects of their birth-right, and to a share of the public Land; but such acts are not to be imputed to the sovereign, they are the acts of a colonial government, corrupted by the property extorted by fraud from the people, with a license from Ministers to suspend the trial of the title to the Land, and employ troops to collect the rents imposed by fraud!!

Yet that same Minister, Earl Grey, in his Despatch, says, that the settlement of the Land Question is a matter of the highest importance to the political and social well-being of our community; but the Honourable, the Leader of the Government, says, it is a mere will-o'-the-wisp; and a majority of this House, the Representatives of those defrauded and oppressed men, decided, that the subject was unworthy of being considered in Committee on the State of the Colony.