

the motion for the third reading they finally refused to vote at all, as a last protest against the bill. Before arriving at this stage the Attorney-General had the bill referred back to committee for the purpose of making several amendments to meet the objections raised by the Opposition, which did not, however, in any way affect the principle of the bill. In moving the first amendment offered, Mr. Carscallen was very emphatic in his denunciation of the clause which requires a new election to be held in the event of a member being unseated by reason of the disallowance of the constables' vote. Mr. Foy offered an amendment to strike out section 2, postponing the trial of petitions in certain circumstances, and Mr. Whitney and Mr. Marter each presented amendments, providing that pending litigation shall not be interfered with. The Government had a majority of six upon each vote. The Lieutenant-Governor arrived at the chamber at 7 o'clock, and having given his assent to the bills which had been passed, the Legislature adjourned.

The bill relating to the Provincial fisheries was read a third time and passed.

The Attorney-General moved the House into committee on the bill to amend the municipal law empowering municipal Councils to expend money on works situate without the limits of the municipality, for the purpose of preventing floods.

Mr. Carscallen suggested that some provision be made for cases where a virtual diversion of the course of the stream is made.

The Attorney-General moved the insertion of a clause giving the Government the same powers to expropriate land required for roadways to public or national parks as is now enjoyed by municipal Councils.

The clause was added and the bill read a third time.

The bills respecting voters' lists in certain cities and correcting clerical errors in the Revised Statutes were passed through committee.

Upon motion of the Attorney-General the order for the third reading of the constables bill was discharged and the bill referred back to committee.

#### Finality of the Opinion.

The Attorney-General intimated that he desired to make some remarks upon one or two legal points which had been raised by the Opposition and discussed by the House. The first point was as to the finality of the Court of Appeal upon the questions submitted to it by the bill. He quoted the case of *LaBerge and others v. Landry*, from Cartwright's con. cases, a case arising in the Province of Quebec, where the petitioner had been declared elected for an electoral district and the election was afterwards declared null and void by the judgment of the Superior Court, under the controverted elections act of 1865, for corrupt practices, both personal and by agents. An application for appeal was refused, a fair construction of the act being held to be that it was not the intention of the Legislature that there should be an appeal, and the act having been assented

to on the part of the Crown, it was held that there was not in this case a prerogative right to permit an appeal, and therefore the application must be refused. That was a much stronger case than an appeal to the Supreme Court. That case was commented on a little later, and perhaps was modified to some extent, although not in its effect. (Applause.) The case of *Cushing v. Dewey*, Privy Council 5 appeal cases, was also quoted, and from the remarks of the Lord Chancellor in giving judgment he did not apprehend there is any danger of the Privy Council entertaining the case here. The question before the House, he urged, is pre-eminently a question for the House to deal with; it is a question touching as closely as a trial of an election petition the rights of this House in dealing with election matters. The case of the *Union Colliery Company v. the Attorney-General of British Columbia* was cited, holding that the Supreme Court has no jurisdiction and no power to entertain an appeal. The Privy Council decided that they have no right to entertain an appeal, that it is not appealable to them; in view of the words of the act directing that the decision of the Superior Court shall be final, it seemed to him to settle the question in both of the courts to which it might possibly be taken, and the only two courts in which it could be taken by the Court of Appeal. (Cheers.)

#### The Dominion Precedent.

There was another case perhaps upon another point to which the attention of his hon. friend had been called. The leader of the Opposition rather laid it down as a principle in one of his speeches on this bill that there was no such thing as a scrutiny under the Dominion act; first, that the votes of persons voting could not be traced and that persons could not be asked how they voted under the Dominion law; secondly, that there could be no scrutiny, and, thirdly, from these facts and for all these reasons the act of 1887 passed at Ottawa was not applicable here and was not, therefore, a precedent in this House and for legislation passed here. His hon. friend from West Huron had sent him the case to which he referred during the debate, and he found that upon this question Mr. D'Alton McCarthy, an eminent authority upon election questions, said: "The protection given by sec. 77 of the election act only applies to the benefit of electors and not to persons who voted without the right to vote." (Government cheers.) That was Mr. McCarthy's argument, and Sir Matthew Crooks Cameron, Chief Justice of the Court of Common Pleas, said: "I am not satisfied that the person who has no vote and voted at the election may be asked how he voted." It does not seem to be good reasoning that the protection afforded to the person having the right to vote ought to be extended to the one who voted without the right to do so. (Cheers.) There is a law laid down in reasonably clear terms, first, that you may inquire how a man with a bad vote voted, and, secondly, you may have a scrutiny, and the person who is not declared elected may