Record of the
Proceedings of the Queensland Parliament
...
Legislative Assembly
28th June 1861
...
Extracted from the third party account as published in the
Courier 29th June 1861

The Speaker took the chair at 20 minutes past 10.

QUEENSLAND VOLUTEERS.

Mr. BLAKENEY presented a petition from a corps of the Queensland Volunteer Rifle Brigade, praying that the government would place them on an equal footing with the volunteers of the other Australian colonies. He moved that the petition be received.

Mr. EDMONSTONE seconded the motion.

Mr. FERRETT objected to the reception of the petition, upon the ground that it virtually amounted to a prayer for a grant of public money.

The SPEAKER overruled the objection of the hon. member, and the motion for the reception of the petition was then carried.

Mr. COXEN represented from another corps of volunteers a petition similar in character to the one previously presented. This petition also was received.

MUNICIPALITES ACT.

The COLONIAL SECRETARY postponed until Tuesday next the motion standing in his name, for leave to introduce a bill to amend the Municipalities Act.

SUPREME COURT BILL.

The ATTORNEY-GENERAL, in moving the second reading of this bill, took occasion to observe that it was generally admitted that the present constitution of the Supreme Court was insufficient to meet the growing wants of the colony, as far as the administration of justice was concerned. The bill to amend the constitution of the Supreme Court which had passed both houses last session, had been sent home for the royal assent and was returned in consequence of the schedule to the bill naming a less amount as the salary of the judge of the Supreme Court here, than he had hitherto been receiving. It would also be in the recollection of hon. members that the original amount in the schedule of the bill proposed by the government, was £2000, but this amount was subsequently reduced by the house when the bill was in committee, to £1200. On that account alone, he (the Attorney-General) had advised his Excellency to reserve the bill for the royal assent. He had had no doubt of the legality of the bill in every respect, with this exception; and his opinion as to the legality of the measure had been fully endorsed by the Secretary of State. The Duke of Newcastle had sent the bill back for the recommendation of the legislature, solely on account of that portion of the schedule referred to. Although great exceptions had been taken to the bill by various parties in the colony, he was prepared still to maintain that the bill was legal in all its parts; and it had been pronounced legal by the Imperial authorities. The despatch of the Duke of Newcastle clearly laid it down that the bill was legal. Whether the Duke of Newcastle was a bad lawyer, or bad statesman, he (the Attorney-General) would not take upon himself to pronounce. No doubt, however, before pronouncing an opinion upon the measure that nobleman had referred the matter to the Crown Law Officers of Great Britain. The Duke of Newcastle had sent back the bill for the reconsideration of the schedule by the house, and this reconsideration he asked on principles of equity—and on those principles alone. The Duke of Newcastle says “the only provisions in this bill upon which any question arises are those which in effect reduce the salary of the Judge, Mr. Lutwyche.” This reduction was effected by the schedule of the bill. The first paragraph of the despatch showed that there was no intention to pronounce the other portions of the bill, about which so much had been said, bad according to law. After entering into certain explanatory details, the despatch

touches on this main point, and he considered that a perusal of the despatch must bring the house to the conclusion that the bill was not illegal. It is clearly asserted that that legislature had a legal right to deal with the Judge's salary. He placed emphasis on this portion of the despatch, because some parties in this colony appeared to be under the impression that the legislature did not possess that legal right. But he did not wish to have it imagined for one moment that he thought in this instance the legislature should use this power. He merely wished to have it clearly understood that he thought the legislature did possess the power, and that the act of last session was not in any sense illegal. It was no argument against the legal power of that house that they had, as he thought in this instance, exercised it improperly. The Duke of Newcastle had placed the matter before the house on equitable principles, and on very strong grounds. He says, "I do not call in question the legal competency of the legislature to make this reduction. But I wish to point out to them that the inhabitants of what is now Queensland were duly represented in the Legislature of New South Wales when the laws to which I have referred were passed. The obligations incurred by that legislature, and of the government which possessed its confidence, were therefore incurred with the implicit assent and authority of the Queenslanders themselves, whose present legislature and government must, I think, be held to have inherited the engagements of their predecessors, and whose credit I feel to be deeply concerned in scrupulously fulfilling those engagements, and in resisting every inducement to make an exception to the general rule, unless sanctioned by the clearest considerations of fairness and justice in the first place, and of overruling public benefit in the second." The next paragraph then goes in very plain language to affirm the legal right of that house to deal with the salary. It was to the following effect:—"That there are peculiarities connected with the transfer to Queensland of a New South Wales judge upon New South Wales scale of salary, I am ready to admit, and they prevent me from extending to Mr. Justice Lutwyche that full and absolute protection, on the part of the crown, which I should think it my duty to afford to a judge whose salary should be reduced below the amount fixed by the commission, in consequence of any political change of ordinary character. At the same time, I am anxious to give the government and legislature of Queensland an opportunity of re-considering a case in which the utmost weight ought to be given to those considerations which go to maintain the judge in the position of advantage in which he was placed by his commission and continued by the order in council of 1859." After such language, could any one for a moment attempt to deny that the Secretary of State distinctly recognised the legal right of the house to deal with the salary. He says that "he cannot afford to the judge that absolute protection on the part of the crown," and which, under other circumstances, he should have felt bound to afford. So much for the legal part of the question. When, however, the equitable view of the case was presented to that house, he (the Attorney-General) thought it assumed a very different aspect. He certainly for one, was not prepared to vote for a reduction to his Honor's salary, and although it had been asserted that last session the government winked at the reduction, yet he on that occasion gave an honest vote in opposition to the reduction, because he thought such reduction most inequitable. And he thought that now, after that despatch of the Duke of Newcastle, the house was in duty bound to bow to the authority of that statesman with the utmost willingness. The bill which he had introduced last session was, he thought, capable of some amendments, and in the present bill those amendments were embodied. He had not altered the main features of the original measure, but perhaps he had placed it in a better shape, and rendered it more palatable to his Honor. Some objections to having his present commission cancelled appeared to have existed in the mind of the Judge. The government, in proposing to cancel his commission, had been actuated by no desire to do anything which would injuriously affect his Honor's position. He. (the Attorney-General) held that it should not have affected his position had his Honor consented to have his commission cancelled. Of course his Honor could not hold commissions under two governments, and he (the Attorney-General) could not see the reasons of his Honor in objecting to have his commission under the Great Seal of New South Wales cancelled, and to receiving a commission under the government of this colony. However, his Honor, he believed, had peculiar reasons for his objections, and as this colony would not be affected by the matter he, (the Attorney-General) had thought it better not to retain this portion of the original bill. The house would perceive by clause 3, as amended, that the judge would be placed in the same position as he was at present before the passing of the act. The judge had made numerous objections to certain portions of the measure, and these objections had been conceded to. One point he had pressed strongly on the government, viz., that he should be made Chief Justice of the colony of Queensland. This point the government had not thought fit to accede. Its concession would he, (the Attorney-General thought)—would have involved a violation of the Queen's prerogative, and of the clause in the Constitution Act in vesting this power in the Executive. By-and-by, if a new judge were made, of course his Honor would have as good a chance of being made Chief Justice as anybody else.

In his (the Attorney-General's) opinion, it would have been contrary to the act of parliament and a violation of the Queen's prerogative to have acceded to his Honor's demands in this matter, and embodied them in this bill. A clause at present, he would point out, is inserted in the bill, providing that during the time that his Honor is sole judge of Queensland, he shall have rank and precedence as Chief Justice of Queensland. On clause 13 some discussion had arisen as to whether the judgment of the Chief Justice should be final in the case where there were only two judges and they disagreed upon a point. He had seen no reason why the clause, as it originally stood, should not be altered, and he had accordingly made the alterations suggested. The bill provides for the working of the court in the same way as the one of last session. He did not know that there was any necessity for him to say much more upon the matter. Every hon. member had had the bill and amendments before them for some time. There was one clause to which it would be as well for him to draw attention. It had been said that the absence of the judge from Brisbane when on circuit was calculated to impede the due administration of justice, and virtually to suspend the *Habeas Corpus* Act. This case, it would be seen, was provided against by the 3rd clause of the amendments. The bill, as it at present stood, was, he thought, a good Supreme Court Bill. When the bill was discussed in committee, he would explain the clauses and amendments one by one. As he was compelled to go to Drayton on the 10th of next month, to conduct the Crown prosecutions, he would ask the house to go into committee on the bill at an early date. It would disappoint him if, during his absence, any important features of the measure were altered, or any remarks made upon the measure, he not being there to hear them. (Hear, hear.) He would therefore ask hon. members to kindly give the bill their serious consideration, and he would feel much obliged to them if they would permit him to go into committee with it at an early date. He did not wish to unduly press the measure, or hurrying it through the house, but for the reasons he had stated he would like the discussion of its clauses to come on as soon as possible. With regard to the clause proposed by the hon. member for Fortitude Valley, he had examined it, and saw no objection to it. He thought that the hon. member in drawing it up had taken every care that no improper person should be admitted to plead in the Supreme Court. He now begged to move the second reading of the bill.

Mr. WATTS, to a certain extent, endorsed the opinions expressed in a petition which he presented the other day from some of his constituents with reference to his Honor's salary. He thought that his Honor was equitably entitled to his full salary of £2000 a year, and his pension, as when he came to Moreton Bay he had accepted the appointment with the full understanding that he would receive both. But he thought that that house should not increase the schedule from last year, but should secure to the Judge his present salary in some other way. Were the sum of £2000 put down in the schedule, any future judge appointed would be enabled to claim that amount, and he did not think that the house was justified in binding themselves to give that salary to any future judge. He should proposed that the schedule be reduced to £1200, making provision at the same time that the full amount of £2000 be secured to the present judge. He wished, also, to make another suggestion. Under the Masters and Servants Act magistrates could deal with cases under £50. He thought they should be empowered to deal with the same amount in the Petty Debts Court, an appeal of course, to the Supreme Court being provided. Two thirds of the cases at present tried before the Supreme Court would then be brought before the Petty Debts court, and much of the expense of litigation would be avoided. He thought that his Honor ought to consent to his present commission being cancelled, and to take a new commission under this Act. With reference to the pension question, no doubt certain hon. members would have a great deal to say. But although in every other case he would strenuously oppose the principle of pensions, in the case of the judges of the land he certainly should support the bestowal of a pension, as their position was not analagous to that of any other class of the community.

Mr. RAFF understood at the time the bill was previously under discussion in that house that it was understood that it did not pretend to deal with the equitable rights of any individual. In allowing to pass the amendment proposed by the member for the Western Downs, he voted for a sum to be placed in the schedule to the Act without reference to any individual, and the Attorney-General said, at that time, a right view of the case was taken. If those rights existed on the part of the Judge, he considered it the duty of the Attorney-General to bring them forward in some other shape. He (Mr. Raff) agreed with the hon. member (Mr. Watts) that the schedule to the bill provided for the salary of a Judge without reference to the existing one, and that if the amount set down in it were maintained, his successor would be entitled to the same sum. Under these circumstances, he held that it would be better to retain the sum of £1200 set down in the previous bill, and to set apart the remaining sum to be paid the present Judge by a supplementary schedule. He again asserted that on the previous occasion

they did not deal with the rights of the present Judge, and understood that the question of the sum due to him would be dealt with at some other time.

The ATTORNEY-GENERAL denied that it was so.

Mr. FERRETT did not take the same view as the previous speakers. When the matter was previously before the house, he understood that the salary of a judge was legislated for without looking at any particular judge. At the same time he would affirm that the house had a perfect right to deal with the salary of the present judge. The Duke of Newcastle also told them that they were right, but at the same time told them that they were wrong on account of the interference with the salary of the present judge, whose case was an exceptional one. He could not understand how the judge could hold two commissions, one from New South Wales, which he did not wish to be cancelled, and another under which he acted in this colony. He saw no occasion to alter the opinion held by him last year as to the salary, especially as he had received an addition of £500 a year to the salary he was appointed to, which was £1300 a year. (The Attorney-General—"No, that is not the case.") The Attorney-General said no, but the salaries of the judges were £1500 a year, and afterwards raised to £2000. At any rate he had an advance upon the salaries previously given to the judges in New South Wales, but that was give in consequence of the increased cost of living consequent upon the gold discovery in New South Wales. Since that gold discovery, the salaries of other officers had been reduced, so he saw no reason why the salary of the judge in this colony, when there had been no gold discoveries, should be the same as in New South Wales. He had taken some trouble to look at the statistics of the other colonies, of South Australia, New Zealand, and Tasmania, and found that nine of the judges in those places got a salary of £2000 a year, though in those places the population was three times that of this colony. He also found from statistics that living was not dearer in those places, so that could be no reason for giving a larger salary here. He stated from recollection that the Chief Justice of Adelaide for many years received only £1200 a year, and there were other judges at that time who did not receive that amount. As perhaps the house might like to know where he got his statistics he would read to them from an account of the population, the price of provisions, &c., in Tasmania. In that place he found the salary of the Governor was £4000, the same as here, while the salaries of many of the officers was lower. The last census taken in that colony was in 1857, since which time the population had increased, but the population then numbered 81,492, about three times that of this colony. He would bring before the house the price of provisions there, as perhaps it might be said that they were higher here, and therefore a larger salary was required. The hon. member then read the prices of bread, butter, flour, milk, sugar, salt, tea, beef, mutton, veal, and pork, which, he said, shewed that the prices of there provisions were as high there as here. The salary set down then was much larger than in other places, and such being the case he did not see that the house had not a perfect right to receive it.

Mr. BLAKENEY felt bound to make a few remarks on that occasion, as he was absent when the bill was considered last session, and would be prevented from speaking when the bill sent into committee this year. As regarded the question of salary, he thought that the arguments for the £1200 might be good if they referred to the case of a new judge, but from the peculiar circumstances of the position of Mr. Justice Lutwyche he thought that in equity and good faith they were bound to continue to him the same salary as he was receiving when separation took place. There were two clauses in the bill to which he wished to draw attention, the 11th and 35th. The 11th proposed to give power to the Judge of the Supreme Court to appoint commissioners in different towns of the colony to issue writs of *capias* for the arrest of defendants. A similar proposition was made to appoint a commission at Newcastle, where, from its being a shipping port, frequent opportunities existed for debtors to abscond, and on that occasion three eminent lawyers, Messrs. Darvall, Faucett, and Plunkett, stated that the thing was impossible as from the commission having no power to take bail, the person apprehended must be brought to the town where the sheriff resided in custody as a prisoner, or put in the lock-up, and great hardships might thus be inflicted where persons could shew good cause why they should not be arrested. He objected to the 35th clause because it interfered with the power possessed by the present sheriff who had the power to appoint deputies, and frequently exercised it. Besides, it was hardly likely that any one would undertake the duties of the office without a salary. He believed that the object of the claim was to save the trifling expenses incurred by the sheriff's travelling. These expenses, however, were necessary, as he was responsible for the safety and condition of all the lock-ups and gaols, and had a right to visit them at least once a year. This was always done in New South Wales, either by the sheriff or the sub sheriff; and when there was no occasion for him to attend the assizes for this purpose, he could appoint a deputy.

The COLONIAL SECRETARY rose to advocate a fair and liberal treatment of the Judge. In explaining the circumstances under which the bill was originally passed, his hon. colleague, the Attorney-General, had made out a very clear case so far as the government and the legislature were concerned. His hon. friend had shown that the colony had a perfect right to deal with the Judge's salary by legislative enactment, and he was glad to find that this view had been endorsed by the Duke of Newcastle. The only question raised with regard to the salary had peculiar reference to the circumstances under which the present Judge had been appointed and he was very pleased to find that the house were prepared to carry out the recommendations of the Duke of Newcastle in so far as they related to the desirability of giving his Honor the full salary claimed. He was the more pleased at this as it would show that the government, in granting his Honor the fully salary up to the present moment, were actuated by right motives and justified by the real circumstances of the case. He maintained, however, that there never was any intention on the part of the government or the legislature to reduce the present judge's salary beyond the amount guaranteed to him by the Government of New South Wales; nor was there any intention to alter his position, or damage his status on the bench. During the recess, a somewhat lengthy correspondence had taken place between the judge and himself, a portion of which was published through the press at the time, and the whole of which was now on the table of the house. It was not his intention to enter into a discussion upon the various matters raised in that correspondence, but so far as his potion of it might be called in question, he begged to state that after having given the whole subject the most mature consideration, he had been unable to discover any reason why he should alter his opinion. On the contrary, the more he considered the matter, the more he felt bound to adhere to every word he had written, and he was confirmed in this conviction by the Duke of Newcastle himself. The government had done all in their power, whilst carrying out the act of the legislature, to respect and guarantee the rightful claim of his honor; but, he regretted to say that his Honor had not met the government in an equally cordial and generous spirit. Soon after the measure was passed, the judge forwarded a petition to the Duke of Newcastle, protesting against the legality of the measure, on the ground that the order in Council did not give the same franchise as that prevailing in New South Wales. The Legislature was, therefore, his Honor's first object of attack, but, not satisfied with this, he immediately after turned round, and abused the government, but in his official correspondence and his letters through the press, in which, it would seem, he enjoyed very considerable power. It looked as if his Honor, regarding the government as the weaker party, had determined to concentrate his bitterness on them. Considering, however, the course adopted in his favour by the government during the last session, and the steps taken since to convince him that there was no intention on their part or that of the Legislature to interfere with his position on the bench, it did seem to him that the procedure of the judge evidenced very great ingratitude, and was in every sense, extremely ungracious. (Hear, hear.) His Honor, throughout, had written in an unnecessarily excited and offensive manner, whilst the government, on the other hand, had adopted a most moderate tone, and had done everything in their power to conciliate and correct misapprehension; and even up to the present moment he had endeavoured to cultivate a good feeling and to preserve his personal relations with the judge so far as he could. As for the petitions presented in his favour, he had nothing particular to find fault with in them, but he could not help noticing the fact, so far as he could gather information from the reports that the meetings at which these petitions were adopted, manifested a very improper and disrespectful spirit, both towards the legislature and the government: (Hear, hear). The language employed was most abusive, and the accusations preferred were of a character which no gentleman could condescend to notice. He felt it necessary to say thus much in justice both to the house and to the government. He, for one, would never submit to be influenced by the dictation of riotous and noisy meetings such as those to which he referred. As for the meeting held in Brisbane, he believed it did not represent more than a mere fraction of the citizens, and considering the grossly violent and abusive language employed by some of the speakers, he did not see how it could be regarded as an expression of public feeling in the strict sense of the term. He found from the report that one of the speakers was a young lawyer, a recent arrival in the colony, and not an old resident as might have been expected under the peculiar circumstances of the case, and yet that gentleman gave utterance to expressions which were not only insulting to the government, but really disgraceful to the whole proceedings. (Hear, hear.) Shortly after the presentation of the memorial, his Honor was called upon to express his personal non-approval of the violent and disrespectful language referred to, but his Honor did not do so, and thus he left it to be inferred from his silence that he tacitly agreed with the language complained of. Such conduct on the part of the Judge was, he maintained, not only ungracious but extremely ungrateful. In making these remarks he had no desire to impugn his Honor's conduct as a Judge. On the contrary, he believed him to be a most excellent gentleman on the

bench, and it was only a matter of regret that he should have been so largely mixed up in contests of a purely partizan and political character. (Hear, hear.)

Mr. GORE thought it was right after the attacks made on the Assembly for the course adopted by them last session, that every hon. member concerned should express his opinion on the present occasion. He was one of those who voted last year for reducing the salary of the judge to £1200 per annum, and in doing so, he was actuated by the knowledge that in this colony there was very little work for a judge to do, and that there were many professional gentlemen in England, and elsewhere, possessing qualifications equal to those of the present judge—and he said it respectfully—who would be only too happy to discharge the duties for £1200 a year. But in arriving at this conclusion, he had no desire to interfere either with the salary or the position of the present judge; that having been a matter previously determined. He simply voted for a salary of £1200, because he believed that amount would be sufficient to ensure the services of any competent gentleman who might be hereafter appointed; and if there were no previously existing rights, he should consider it sufficient for the present judge. He believed that Mr. Lutwyche came to the colony, like himself and most of the people, for the purpose of pushing his fortune; and if such were the case, the learned gentleman ought scarcely to complain of facilities being offered to other gentlemen in his profession to do the same. It was said that his Honor felt offended because his name was not inserted in the Supreme Court Bill, in the rank of Chief Justice. He (Mr. G.) admitted that the bill cancelled his commission, but it was, nevertheless, the intention of himself and he believed of most hon. members, that the moment his commission was cancelled, he should be supplied with another, appointing him to the office of Chief Justice. (Hear, hear.) There could be no doubt that his Honor possessed an equitable, or a legal, claim on some one, but he (Mr. G.) contended that it lay mainly against the government of New South Wales, although he doubted very much whether such a claim could be successfully prosecuted in that quarter. Still, as this equitable claim existed, and as it only involved a difference of £800, he thought that, for the credit of the colony, and in justice to Mr. Lutwyche, they ought to grant it. With regard to the meetings adverted to by the Colonial Secretary, he was one of those who strongly disapproved of the abusive language which they were the means of giving utterance to.

Mr. LILLEY, after explaining the law of the matter in answer to the hon. member (Mr. Gore) proceeded to state that it was a most unhappy circumstance that the judge should have been made the subject of so much political discussion. (Hear, hear.) He believed, however, that it was owing mainly to their own proceedings, and the action of a few warm friends of the judge out of doors, and not to any desire or participation on the part of the judge himself. With regard to the language used at the public meetings, he admitted that in some instances it was rather too strong, but why the judge should be made accountable for its use he was wholly at a loss to understand. His Honor, so far as they could see, had nothing whatever to do in the getting up of these meetings, and therefore, it was not to be wondered at if his Honor refused to comply with the request of any one who might urge him to disclaim language in the utterance of which he was nowise personally implicated. If such a course were generally adopted, a man holding a public position might be constantly employed in correcting language used in the public press, for which he was wholly irresponsible. As for the meeting held in Brisbane, he was bound to state, that the Colonial Secretary's representation of it was altogether incorrect. He. (Mr. L.) happened to have been one of those who attended that meeting, and he could, therefore, bear testimony to the fact, that it was not only a large but a most respectable meeting. With regard to the expression made use of by the gentleman to whom the Colonial Secretary alluded, he believed that it had been entirely misunderstood. The phrase supposed to have been made use of in reference to a certain distinguished personage, was to the effect that, "if he had no vices, he certainly had no virtues." The phrase as intended, and, he believed, expressed, was—"if he had no political vices, he had no political virtues." This, of course, made a deal of difference, inasmuch as it showed that the meaning intended was purely of a political nature. In fact, he knew, from private information, as well as from his own impression as one of the auditors, that such was the case. The hon. member here analysed some of the details of the bill, and particularly pointed out that the 35th clause, empowering the government to appoint deputy sheriffs, was altogether unnecessary, inasmuch as the same power already existed in law, and had been exercised on a late occasion. As to the amount of salary to be given to the judge, he did not think it depended upon the quantity or the nature of the food he might eat. It was not, as argued by the hon. member for Maranoa, a question as tot he price of beef, mutton, pork, &c., because if it were so, the shortest and best method of getting over the difficulty would be to allow the judge £1 per week and his rations. (Laughter.) The real question was whether the judge should have the amount of salary promised to him, and warranted under the circumstances of his

appointment by every equitable consideration. His own opinion was that the sum of £2000 was not too much for any gentleman occupying the position of a judge on the bench of the Supreme Court, and his chief reason for thinking so was the necessity of placing the judicial officer above all suspicion. He contended moreover that Mr. Lutwyche was justified in claiming this salary in pursuance of the circumstances under which he was appointed. It was well known that at the time Mr. Lutwyche occupied the appointment he was in receipt of a salary in New South Wales which, exclusive of his private practice amounted to £1500, and there was every probability that he would have continued in office as Attorney-General up to the present day, the Cowper Ministry being very strong. With regard to the suggestion of the hon. member for Maranoa to the effect that the judge might take some other appointment in order to fill up his time, he was at a loss to understand what the hon. member meant. Perhaps he would like the judge to take in washing. (Laughter.) Adverting to the details of the bill, he was of opinion that the provision relative to the issuing of writs of *capias* was not sufficient to meet the requirements of the case. For instance, a man might be leaving the colony largely in debt, and yet have £1000 worth of property on the wharf, but under the present system the officers of justice would have no power to seize upon it. He therefore thought that some power of attachment should be provided, so as to give a right to seize the property as well as the person. With regard to the Judge's Commission, he thought his Honor was perfectly right in protesting against its cancellation, although he might have felt certain of having another issued immediately after. The reason was obvious, for in the event of his Honor entering an action against the government of New South Wales, his commission as received from that government would be regarded as most material evidence. The hon. member concluded by announcing his intention, when the bill came under consideration in committee, to move an amendment designed to raise the educational test in cases of persons seeking admission into either branch of the legal profession.

Dr. CHALLINOR considered that Mr. Justice Lutwyche should be continued in the receipt of the same salary as that guaranteed to him by his commission from New South Wales. The Colonial Secretary stated that the government had dealt liberally with the judge in paying him upon their own responsibility the full salary of £2000 a year after the passing of the Supreme Court bill last year; but as that was simply the sum guaranteed to him on accepting the position, he could not see how it could be considered liberal. Again, he said that the judge had approved of the principle of the legislation of this colony, by consenting to draw up a bill for the government, notwithstanding his having questioned its legality in his petition to the Duke of Newcastle. He could see nothing inconsistent in this; but simply a desire not to throw this new colony into confusion, by making his opinions known to the public, and a desire to render what service he could. The hon. member, Mr. Gore, had stated that he had no doubt the services of gentlemen of equal ability to Mr. Lutwyche could be found in England to discharge the duties of Judge at a salary of £1200 a year. If that argument were good, he would say himself that he had no doubt that gentlemen of high ability, and perfectly competent, could be found in England who would be willing to undertake the duty of Governor for £2500 a year. He was present at the public meeting to which reference was made, and though he did not know all the people present, he would say that, so far as he could judge, the audience was a respectable one. He had always contended that this colony was bound at separation to undertake the responsibilities of appointments made before that time, and was very happy to find that there was no objection to the continuance of the present salary being continued.

Mr. O'SULLIVAN thought that some questions had been brought forward which were not necessary, and should therefore confine himself to the reasons which influenced him in voting. He believed that the Common Law of England was based on common sense, and so took the common sense view of the case, that if the parliament were able to deal with the monetary affairs of the nation, and found that they could only afford £1200 a year to the Judge, they had a perfect right to do so. In this opinion he was borne out by lawyers in that house. The question was now presented to them in a different light, and that was, the equitable view of the case. He did not agree with the public meetings on the question, because he considered that a judge should not be made the subject of discussion. He said also that the meeting did nothing the whole time but praise the judge, and he thought it perfectly disgusting to praise a man to his face in that manner. He himself would prefer abusing a man to his face to praising him behind his back. In the petition he was called a good judge and a fine judge. That he would not deny; for he watched his conduct on one occasion, when he considered him perfect as judge and humane as a christian. The assertion that the ministry were not to blame for the vote of last year was untrue, as the Colonial Secretary had offered to re-committ the bill upon the schedule. He would be prepared to allow the salary of £2000 a year, but was averse to pensions on principle.

Mr. FORBES agreed with the proposition that the schedule should be altered to £1200, and have the remaining sum they were bound to give the present judges made up by a separate schedule. With regard to the public meeting and the observations made at it, the judge might well say “save me from my friends,” as such intemperate language was not likely to improve his status. He should be beyond anything of that sort, as by taking a political position he was not beyond suspicion.

Mr. R. CRIBB was in favor of £1200 being inserted in the schedule, as that would fix the salary of any future judge; but believed also that the judge should be maintained in the position he was in when separation took place.

Mr. TAYLOR thought it right that every member who took part in the proceedings of last year in connection with this bill should now come forward and state his opinions. It seemed to him from all he could see and hear that a wonderful change had taken place in the views of hon. members since this matter was last before the house. When the bill was discussed on the former occasion hon. members very gently expressed their opinion that the sum of £1200 a year was quite enough for Judge Lutwyche. (No, no—it was simply for a judge.) He repeated that it was voted as the salary of Mr. Lutwyche, and that hon. members generally were aware of the fact. But what with the correspondence alluded to, the denunciations of the press, and the disgraceful denunciations in the shape of public meetings it appeared that the government and the house had lost their courage both physically and morally. (Laughter.) It seemed that all the public and the press had to do in order to frighten the government was to get up a meeting in Brisbane. For his own part, he cared nothing for these attacks, whether made through the press or through public meetings. So long as he performed his duty conscientiously as he had done on former occasions, and as he intended to do on the present occasion by voting £1200 a year, and no pension to Mr. Lutwyche, he considered that he had no reason to be afraid either of the public or of the press. In this colony where there was only one judge, and consequently no court of appeal except by reference to the home authorities, he maintained that political demonstrations such as those that had occurred in various parts of the country were calculated to sap the very foundation of justice, and to remove all confidence in the purity of the bench. (Oh, oh, and hear, hear.) He should like to know what chance he would have in action of libel against the promoters of some of these meetings.

Mr. R. CRIBB rose to order. He thought the language of the hon. member was much too strong when applied to the Judge.

The SPEAKER ruled that the hon. member was perfectly in order, and quoted a passage from May showing that a member, so long as he did not speak disrespectfully to the house, might use almost any language he thought proper in reference to persons outside the house.

Mr. TAYLOR thanked the Speaker for his ruling, and as an instance of the effect which these meetings had on the public, he stated that he was asked to attend one of these meetings in the country, and that he declined to do so on the ground that the whole affair was disgraceful. One person assigned as a reason for presiding at one of these meetings, that he had been “bothered in the witness-box during the same day, and would probably be bothered again if he did not take the chair.” Such was one of the effects of those demonstrations. [The man acted cowardly.] No doubt such was the case but the fact was nevertheless the same, and he thought the judge had done material injury to the country by accepting the memorial adopted at these meetings. If his Honor had contented himself by simply accepting the first memorial, and intimating his intention to decline any other documents of a similar nature, no one could have found fault with him, as he could not have been held answerable for a matter of which he had had no previous notice; but when he continued to receive these memorials he must have been fully aware of the agitation that was then going on, and therefore to a certain extent he became a party to all the disgraceful proceedings which followed. As to the proposal for granting his Honor a pension, he was afraid that it would be carried, notwithstanding the professed aversion of hon. members to the principle involved. One gentleman said this was the only case in which a pension should be granted, and another said that was a special case, which could never occur again, so that between the one pension case gentlemen and the special pension case gentlemen, he was afraid the whole system of pensions would eventually be saddled on the country. (Laughter.) He concluded by expressing his entire concurrence in all that had been done in this matter by the government.

The motion was then put and passed without a division, and the committal of the bill fixed as an order of the day for Wednesday next.

MEDICAL BILL.

Mr. WATTS moved the second reading of this bill. He concluded it had been placed in his hands because no member of the medical profession held a place in that house. The object of the act was to protect the medical profession. An act had been passed in 1858 by the imperial parliament, the object of which was to prevent quacks from practising. This bill, as inserted in the *Lancet*, was adapted to this colony in the present measure. The measure had met with the approval of the practice generally, both in this colony and in New South Wales. Perhaps in the second clause, referring to the vending of drugs, some alteration might be required, as he believed there was an act in existence at home, which also referred to this colony, dealing with the subject.

The ATTORNEY-GENERAL expressed his general concurrence in the provisions of the measure and the object for which it was framed, viz., the protection of the medical profession. As he read the 4th clause taken in conjunction with the 7th clause, some alteration would be required. As the bill at present stood a man registered as a chemist and druggist might go and practice as a physician. This would have to be altered in committee. At present he knew one member of the profession registered as a physician who practised as a surgeon. He thought the law should be altered so as to compel a man who wished to practice as a surgeon to be registered as a surgeon, and one who wished to practice as a physician to be registered as a physician, and if a person were competent to practice in both capacities he should be made to register himself in both capacities. He should propose some such alteration in the present bill in committee. He should also propose to strike out the 7th clause, as he did not see why a man who had taken a degree at home should be punished for merely retaining the mere title of Dr. out in this colony. Of course, if such a man wished to practice, he (the Attorney-General) would make it compulsory upon him to register himself. He should support the second reading of the bill.

Dr. CHALLINOR would support the second reading of the bill. He thought it had been received with favour by the profession at large. He should feel himself at liberty, however, to suggest alterations in some of its clauses in committee.

Mr. FERRETT in a speech of more than half an hour’s duration, expressed his objections to the bill, apparently to the great amusement, if not to the edification of the house. His main objections to the bill were that it was a piece of class legislation, attempted for the purpose of protecting men with British diplomas, that it would prevent the retail of “patent medicines,” which, from his own experience, he believed in most cases to be more efficacious than the medicines prepared by the recognised professional men; and that people in the interior, not within the reach of medical practitioners, would be greatly incommoded by the operations of the measure.

At the termination of the hon. gentleman’s speech, the question was put, and he called for a division, when the SPEAKER, finding there was no quorum present, adjourned the house at half-past one, until three o’clock on Tuesday next.