Record of the
Proceedings of the Queensland Parliament
...
Legislative Assembly
13th May 1863
...
Extracted from the third party account as published in the
Courier 14th May 1863

The SPEAKER took the chair at seventeen minutes past three o'clock.

PERSONAL EXPLANATION.

Mr. GROOM wished, before the business of the day was commenced, to make a personal explanation. It had been reported that he had been guilty of a breach of etiquette in not having postponed his question to be addressed to the hon. Minister for Lands on the previous day. The fact was that he had been in communication with a member of the government on the subject, and he thought that the hon. the Colonial Secretary would bear him out when he (Mr. Groom) stated that he had full authority from the government for the course he had pursued. He would consider himself to be unworthy to sit in that honorable house did he not, to the fullest extent, sympathise in the great affliction which had befallen the hon. Minister for Lands; he hoped, therefore, that the house would acquit from the charge of having intentionally been guilty of a breach of etiquette in the matter.

The COLONIAL SECRETARY was quite willing to bear out the statement of the hon. member. He (the Colonial Secretary) had informed that hon. member that he was quite prepared to answer the questions.

COMMITTEE OF ELECTIONS AND QUALIFICATIONS.

The following gentlemen, Messrs. Charles Coxen, Charles Lilley, George Raff, Charles James Royds, Henry Challinor, Robert Ramsay Mackenzie, and J. D. M'Lean, Esquires, were sworn at the table by the clerk, as members of the committee of elections and qualifications for the present session, pursuant to the requirement of the 70th section of the Electoral Act.

THE REAL PROPERTY ACT.

Mr. FORBES, in pursuance of notice, moved—(1.) That a select committee be appointed to inquire into and report upon the best means for obviating the delays in bringing land under the 'Real Property Act of 1861,' where the title is a grant from the crown to the applicant, without encumbrances, and upon the efficiency of the staff of the Registrar-General for the purposes of carrying out the provisions of the act,—such committee to have power to send for persons, papers, and records, and to sit during any adjournment. (2.) That such committee consists of the following members, viz.:—Messrs. M'Lean, Blakeney, Lilley, R. Cribb, Macalister, Bell, and the mover. He thought it but right that in moving for the appointment of the committee, he should state his reasons to the house for doing so. They were aware that great delays had been experienced in obtaining the certificates of titles under the circumstances named in the resolution. It had happened in his own case that delays of from three to eight months had occurred before the necessary documents were received. It had been generally understood, upon the introduction of the act that for the future all incumbrances would be done away with, that the title would be complete in a few days after registration had been made. However, he had found that it took as many months, and he thought that a great boon would be conferred upon the public were these unnecessary delays done away with.

The COLONIAL SECRETARY objected to the appointment of the committee, believing that it would not be of the slightest value whatever. The hon. member who had brought forward the motion, had adverted to an evil which was to be obviated in the most simple manner. The business transacted in the Registration Office had been much larger in proportion than that transacted in the South Australian Office, and in consequence the staff of the office had been greatly overtasked. He had been in communication with the Registrar-General on the subject, and had been informed by that gentleman that it was by no means certain that during the next year there would be so much business, at the same time he did not say there would be any falling off. It had been suggested, therefore, that temporary additional clerical assistance should be afforded, in preference to an addition to the staff of the office; and it had been thought that the small amount of £300 this year, and £300 next year, would be sufficient to clear off all the arrears. The delay in receiving certificate of title did not in the least affect the validity of the title, which was good immediately after the registration. He hoped that the house would not sanction the appointment of the committee. He had been waited upon by the government printer that morning, with reference to the amount of work then on hand, which was certainly very large, and he hoped that it would not be supplemented by the passing of the present motion. He thought he had fully explained the manner in which the evil complained of might be obviated, and that he had shown that the appointment of the committee was quite unnecessary.

Mr. GROOM was in favor of the appointment of the committee, as great losses had arisen from the delay in obtaining the certificate of title.

Mr. FORBES, in reply, said that in spite of what had fallen from the hon. Colonial Secretary, it was his intention to press the motion. Even if a temporary improvement were made, there was no reason to doubt that in a few months it would be as bad as ever. With reference to what had been stated as to the expected decrease in the business of the office, he, on the contrary, believed that it would increase threefold. He would leave the motion in the hands of the house.

The house then divided on the motion, with the following result:—Ayes, 14; Noes, 8.

The motion was therefore carried.

THE MAIN ROADS OF THE COLONY.

Mr. GROOM moved, pursuant to notice—"That in the opinion of this house the main trunk roads through towns, whether incorporated or otherwise, form part of the main roads of the colony, and as such should be permanently made and kept in repair out of the general revenue." His object in introducing the motion to the house was, that thereby some definite principle might be affirmed as to what was to be done by the government towards improving the main roads of the colony which ran through corporate towns. There was a vast difference between the large towns of Brisbane and Ipswich, and the small towns of the interior, at the time of incorporation, much to the disadvantage of the small towns. The streets in the large towns had, for the most part, been entirely denuded of timber—whereas it might be said that all the revenue of the smaller towns was scarcely sufficient to clear away the timber. He would refer to what had been stated the other day as to £2000 having already been voted for and spent in Toowoomba, and would tell the house how that money had been expended. In the first place, in consequence of the original surveyor having made the streets of the town run east and west, a plan not at all in accordance with the situation, it was found necessary to make them run north and south; and £1000 out of the £2000 had been paid as compensation to those persons whose lands had been alienated, that there was just £1000 left to improve the main road of the town, which was four miles in length. Out of that amount £600 had been paid for the erection of a bridge, leaving only £400 for other improvements. The worst portion of the town was the main road, which was to be accounted for from the fact that on some days no less than sixty drays would pass along it on their way to the interior, each dray having from two tons to three and a half tons of loading. Upon the same principle, therefore, that £5000 had been granted to Ipswich for the repair of the main street through that town, he thought that a similar privilege should be granted to every town in the interior. The municipality of Drayton were also in a somewhat similar fix; and he had received intimation that it had been thought expedient, from the very small amount of money at their

disposal, to discharge the town clerk. He would ask the house whether it was likely, unless the general principle to which he had previously adverted were assented to, that the scheme of local self-government advocated by the ministry could be effectually carried out. Of course when it was found that any assistance from the government was denied them, they would cease from taxing themselves, and the roads would suffer in a proportionate degree. He was sorry that the motion brought forward by him the other day had met with such an ungracious reception from the hon. Colonial Secretary, who had declared that if it were carried the endowment should be withdrawn. As far as regarded the money supposed to be derived by the corporation from land sales, he could tell the house that that money was not nearly sufficient to clear the land, which was sold from the timber that was on it. Another difficulty, and one which rendered the making and improving reads so expensive in the towns to which he had referred was, that no stone was to be procured for three or four miles from the town, at the foot of the range; and when he informed hon. members that a load of bricks, which at the foot of the range was worth £2 10s. would, when it arrived at the top, be worth double the money, he thought they would agree with him that the price of the carriage of the necessary material for the formation of roads was calculated to add considerably to the expenditure of the corporation, and would effectually prevent the metalling of the road, unless assistance were granted by the government. In his opinion, the whole of the main roads of the colony should be kept in repair by the government, and that the work should be under the supervision of the Engineer of Roads. The adoption of such a plan would, he believed, have the effect of preventing what the hon. Colonial Secretary had sarcastically termed the scrambling that was going on for the public money; he therefore hoped that the house would assent to the motion.

The COLONIAL SECRETARY said that at all events the constituency which the hon. gentleman who had just sat down represented could not complain that their demands were not sufficiently urged upon the government by their representative, or that their wants were not set forth with the utmost fidelity. He hoped and trusted, however, that the motion then before the house would be turned out in the most summary manner possible. It had been thought advisable to increase the endowment to the municipalities, and he was sorry to find that they were not satisfied still. The government could certainly not in justice do more. When the hon. member referred to the number of drays which passed through the towns he had mentioned, he had appeared to have entirely forgotten the amount of trade which they brought in. He had also not said anything about establishing a toll-bar at either ends of four miles of the main-road, the badness of which he had dilated on. There were such an immense number of roads that, were the motion carried, would claim to be dealt with in the manner indicated by the hon. member, that there would be no money left in the revenue with which to carry on the other public public works of the colony.

Mr. LILLEY thought that it was very desirable that some additional asstitance should be granted to the poorer municipalities, but he could not agree with the motion then before the house; it was of too general and sweeping a character. It was, too, he believed, quite competent to exempt the description of road referred to by the hon. mover from the operation of the act—it was so by the 82nd section of the Municipalities Act. [The hon. member here proceeded to quote the clause to which he referred.] As that clause appeared to him fully to meet all the exigencies of the case, he should decidedly oppose the motion.

Mr. BELL quite supported the resolutions, as he thought that any portion of the main road on which much traffic was concentrated should be taken in hand before any other portion of the main road.

Mr. M’LEAN opposed the motion.

Mr. O’SULLIVAN was of opinion that it was useless for any motion of the sort to be brought in by any hon. member who was not a favorite of the government, as he would never carry it. It was his intention to support the motion, believing that if it were carried a great many difficulties then in existence would be done away with,

Mr. HALY supported the motion.

Mr. R. CRIBB believed the principle involved in the motion to be monstrous, and therefore opposed it.

Mr. TAYLOR was opposed to the motion, believing, as he did, that the towns of Toowoomba and Drayton, were well endowed as it was. After rain, certainly, the roads were bad, but in a short time they became as level as a bowling green. With reference to what had been said about the favorites of the house and the government, he could say for his part, that he had never asked for a shilling.

Dr. CHALLINOR supported the motion, provided the mover would agree to amend it, so that the government should be called upon to make the road in the first instance, when he thought it was the duty of the corporation to keep it in repair.

Mr. FERRETT could not conscientiously support the motion in its present shape, as should it be passed, certain little towns with which he was acquainted, would, of course, come under its operation. They would have Surat and Roma coming upon the government for the making and repair of the main streets through them.

Mr. WARRY was of opinion if at their own request towns possessed corporations they should do the best they could with them. With reference to what had been said about favourite members, he must say that he did not like to hear the word favourite used at all. He looked upon hon. members of that house as independent gentlemen. (“Hear, hear,” from Mr. Jones.) He should oppose the motion.

Mr. O’SULLIVAN rose to move an amendment, but having previously spoken, was ruled by the Speaker to be out of order.

Mr. GROOM replied: He would state with reference to what had fallen from the hon. Colonial Secretary about the erection of toll-bars, that considering there was one already in existence, should the corporation establish others, the government would soon step in, and put a stop to it. The hon. member for the Western Downs (Mr. Taylor) had certainly been of a different opinion when he (Mr. Groom) referred to the time when that hon. gentleman had descanted so eloquently upon the beautiful head of the hon. member at the head of the government. He (Mr. Groom) should press the motion to a division.

The house then divided with the following result:—Ayes, 6. Noes, 16.

The motion was, therefore, negatived.

THE HULK “JULIA PERCY.”

Mr. BLAKENEY moved—“That an address be presented to the Governor, praying that his Excellency will be pleased to cause to be laid on the table of this house a return showing—(1.) The amount paid for the brig ‘Julia Percy,’ and the sum expended in fitting her up as a hulk for the Water Police force. (2.) Whether there was any examination or report made, and by whom, prior to her purchase. (3.) Whether she has been found fit for the service of the Water Police, and if any, and what report had been furnished to the government of her present state of repair.” In this case, he said, from what he had heard, and believed to be true, with regard to the vessel, there had been an improvident outlay of money to a very large amount;—in the first instance, for purchasing a rotten hulk without a proper survey; and, again, a large expense in fitting her up for the Water Police. It was said that she had been found totally unfit for service. Therefore, he thought it was very desirable that the returns he moved for should be laid on the table.

Mr. O’SULLIVAN seconded the motion.

The COLONIAL TREASURER said there was no intention or desire on the part of the government to object to the motion; but he, perhaps, might be able to make some statement in reply to what he had said which might obviate the necessity to have the papers laid on the table of the house and printed. He might tell the hon. member that the vessel was wrecked in some place to the north, some time ago, and it was thought desirable to purchase her for the purpose of receiving the water police force. Upon a survey which was made of her—a short survey—it was thought she was adapted for the purpose. The sum of money asked for her—a very small sum—was £200. That sum was paid for her by the government, when she was brought down to this

port, which she reached in safety, and then was fitted up for the service to which she was appropriated. He might say, with regard to the stores, rigging, anchors, chains, &c., that they were complete, and they had been put to uses equal to a sum of £250; so that, instead of a loss on the purchase she had actually cleared the sum of £50. It was hoped that she would prove serviceable for the purpose desired; and she was fitted up, and a sum of about £500—no, £350—[Mr. BLAKENEY: £600]—was expended on her, in fitting her up. There had been £170 spent in stores, arms, boats, and guns, which were valuable at present and which were forthcoming. He (the Treasurer) made this statement, so that it would be in the power of the hon. member to withdraw the motion if he did not think it necessary—if he did not think it desirable that the motion should be passed in its present state. [Mr BLAKENEY: What is her present state?] As to the state she was in now, he might say that a survey was being held upon her this day, but the report had not yet come before the government. He might say that he did not think it would be favorable. (Hear, hear.) But she might last some time longer for the purpose desired. At any rate, he believed no loss could accrue to the government. (Hear, hear.)

Mr. O'SULLIVAN was glad the opposition had got the hon. member for Brisbane to his side of the house (a laugh), because he certainly opened his (Mr. O'Sullivan's) eyes to several little things that were going on. (Laughter.) That was a valuable statement by the hon. the Colonial Treasurer, that the vessel had been surveyed, but he had not told the house who surveyed her. She was afterwards bought for £200, and found to be perfectly worthless; and for fear that she was not bad enough (laughter) £500 or £600 was laid out upon her to make her worse. (Laughter and "hear, hear.") He approved of the motion for the papers, and the Colonial Treasurer should not put them off with what he considered "clap trap."

The question was then put, and declared upon "the voices" to be negatived. After a pause, however, during which, some hon. members made merry at the result,

Mr. BLAKENEY called "Divide."

The house then divided, and the motion was affirmed by 12 to 10 votes.

THE CASE OF JONATHAN HARRIS.

Mr. JONES rose, pursuant to notice, to call the attention of the house to the case of Jonathan Harris, and to move—"That this house do now resolve itself into a committee of the whole, to consider of an address to the Governor, praying that his Excellency will be graciously pleased to exercise the royal prerogative by granting a pardon to Jonathan Harris." He had altered the motion, not substantially, but as far as a few words went, by substituting the words "exercise the royal prerogative by granting," in the place of the word "grant," as originally printed. In calling the attention of the house to this case, it was not his desire at all to be understood as interfering unduly with the prerogative of the crown, in bringing to bear upon it any amount of pressure which might not be considered constitutional or right. But he did think that in this particular case there had been a miscarriage of justice; and that upon having it re-brought before the attention of the Governor and the Executive enough would appear on the face of the case to induce his Excellency to exercise the Royal prerogative in the most graceful way it could be exercised, by listening to the cry of an unfortunate prisoner who was supposed by a very large proportion of the public to be an innocent man. (Hear, hear.) It appeared that at the last Toowoomba assizes Jonathan Harris was found guilty of embezzling a letter in his capacity of postmaster of Warwick. The case against the man was one, to say the least of it, of extreme doubt. There was a great conflict with regard to the testimony; and the learned judge in his charge to the jury, put it in such a way that he (Mr. Jones) thought, and every one in the court thought, there would be a verdict of acquittal. (Hear, hear.) However, the verdict of the jury was guilty. It created a great deal of excitement in the town. People, he was glad to say, were not so devoid of a sense of justice that they looked upon a case like this as a very extraordinary case, and their feelings were excited; it was a very strange case and a very unfortunate one. The people of Toowoomba, through their Mayor, Mr. Groom, presented a petition to the Governor praying for a mitigation of the sentence; and he (Mr. Jones) thought it would not be possible to put the case in a stronger way than it was put in that petition. It stated that the verdict was an unsatisfactory one, and prayed for a mitigation of the sentence upon the following grounds:—1.

The character of the principal witness, who in his evidence distinctly admitted that he had made an attempt to compound the felony, and against whom there are other grave charges, one of which—that of passing under a feigned name—is substantiated by a declaration which accompanies this memorial. 2. That upon the credibility of the above witness, the whole case hinged. 3. That there was no proof adduced that a porter who had access to the post-office had not taken the cheque, the said porter not having been called to prove the negative. 4. That the wife of the prisoner, who admits having taken the cheque in the course of business, from one Harry White, formerly a servant of the principal witness, and who has since absconded, could not be called upon to give evidence in favor of her husband. 5. That his honor the Judge, in summing up, gave the jury to understand that there was a doubt, to the benefit of which the prisoner was certainly entitled. 6. That the jury themselves were not agreed, and only returned the verdict of guilty from some of their number not being cognisant of the rules which ought to govern the findings of juries. And the memorialists respectfully prayed that his Excellency would be graciously pleased to give favorable consideration to the case. In support of the last allegation "that the jury were not agreed," was the declaration of John Patterson, who served on the jury, and who said—I, John Paterson, one of the jurymen in the case of Jonathan Harris, do hereby declare that when I agreed to the verdict of guilty in the case of Regina v. Jonathan Harris, I did so from a conviction that the minority of the jury must give in to the majority, although my own conviction was that the prisoner was not guilty. JOHN PATERSON. Witness—Robert H. D. White, J.P. Then, it appeared that Andrew Watt, who was the only witness in the case—the man upon whose evidence, the prisoner was convicted—was, at the time, actually at Toowoomba, passing under a feigned name. This was supported by the declaration of John Jones, as follows:—"I, John Jones, do hereby declare that the man Andrew Watt, bullock driver, in Warwick, did come to the Royal Hotel, and resided there under the name of Underwood, and was known to me, and demanded that his bill should be made out in that name, and that I was only informed of his real name by hearing it from Mr. Groom. JOHN JONES, Royal Hotel, Toowoomba. Declared before me this 19th day of January, 1863. W. H. Groom, J.P., Mayor. It was a very extraordinary thing to find that witness, for some reason of his own, passing under a feigned name. The clerk of petty sessions at Warwick, Mr. Evans, certified that he had known Jonathan Harris, for the six years he held the office of post-master:—During that time I have been in the habit of sending and receiving many and large sums of money through the post-office, and that during that period I always found the said Jonathan Harris honest and correct in the discharge of the duties of his office, and that I entertained a high opinion of his trustworthiness, having on several occasions left large sums of Government money in his charge, and never at any time had occasion to alter that opinion." There were similar certificates from the town clerk; James Kingsford, mayor; George Kennedy, S. W. Aldred, the magistrates; Mr. Jackson, the manager of the bank; and others. Then there was a petition from Warwick, signed by all the principal people—by the Mayor, Mr. Aldred, W. Daveney, Mr. Armstrong, and others, besides all the aldermen of the town;—and it stated that the character of the prosecution was one of extreme suspicion, while the character of the prisoner Harris had been of the very best description. That petition was referred by the executive to his Honor Mr. Justice Lutwyche, who tried the case. He (Mr. Jones) would not trouble the house by reading the whole of the judge's report, but he would give the conclusion of it. His Honor stated—"In summing up, I told the jury that the whole case turned upon the credibility of Watt, who did not come into the witness-box with clean hands, as he had endeavored to compound a felony. On the other hand, Mrs. Hudson's testimony was not impugned; and if she was to be believed, there were certainly grounds for a reasonable doubt whether Watt spoke the truth. The Jury, hoever, found the prisoner guilty. In this finding I am unable to concur, for without taking upon myself the jury's province of deciding upon the credibility of witnesses, the conflict of testimony was too great to make the conviction a satisfactory one. I accordingly recommended that the prisoner be pardoned." He (Mr. Jones) was sorry to say—he did not know how it was held—that the judge's opinion on this occasion was overruled; and there was a cold letter, signed A. W. Manning, that the Government "are unable to perceive any proper ground to warrant their interference with the course of the law." He hoped, on re-consideration, that the government would see that the prerogative of mercy would be exercised by his Excellency. If there was anything in a verdict, it was that it showed that the people of the town in which the prisoner was tried—the community in which he lived—the most influential—all were in favor of a mitigation of the sentence. If there was

anything in a verdict, it was that it should be a satisfactory verdict—that the people should feel that a criminal had been punished—not that injustice was done to an innocent man. There was a prisoner to whom mercy might be extended, if not justice—he was in ill-health in gaol. He (Mr. Jones) did hope that the government after re-considering the case, would regard it more favorably than they had before. He knew it might be said, on the other side, that his Honor the Judge inflicted upon Jonathan Harris the severest sentence allowed by law, and that, so far be maintained the verdict of the jury. To that he might reply that the Judge would hardly have acted constitutionally in setting his judgment or opinion against that of the jury who gave their verdict. He did think that the learned Judge took the proper course in bowing implicitly to the verdict of the jury and in passing such a severe sentence. And he also thought the government, after referring to him and receiving his report on the case, made after a calm review and re-consideration of all the circumstances, should have paid respect to his recommendations. For himself, he said, that after some considerable experience in criminal practice, he had no recollection of a case in which the opinion of the judge had been set aside; and he sincerely hoped that what had never been done in another colony, would not be laid down as a precedent in this. He hoped that the ministry would see the proprietary of advising his Excellency to the most favorable consideration of the case. (Hear, hear.)

Mr. GROOM seconded the motion.

The COLONIAL SECRETARY said he would not follow the hon. member for Warwick through the details of the case which he had laid before the house, because it seemed to him that those details must have come under the notice of the jury who tried, and the judge who sentenced the prisoner, in a way which gave them an advantage over the house in coming to a decision. (Hear, hear.) But he must say that this was a very delicate and important matter for the house to deal with. (Hear, hear, for Mr. Jones.) And he trusted that every hon. member would consider it fully and carefully before committing himself to any course which should be an interference with the administration of justice. (“Oh” and “hear, hear.”) Shortly he would state the reasons why the Executive did not accede to the memorial received from the hon. member, the Mayor of Toowoomba, and why the Executive Council did not advise his Excellency the Governor, to exercise the prerogative of mercy. First, no evidence was brought before the Governor and his advisers on that occasion, which led them to consider that the case had a different aspect from that under which the judge considered it when passing sentence. Second, the conduct of the judge himself who tried the case was somewhat peculiar with regard to the prisoner. The judge recorded sentence against the prisoner, the heaviest it was in his power to pass, namely, three years’ imprisonment. If the judge had been of opinion that the jury had been mistaken—that they had not taken a proper view of the evidence before them—it was competent to him, either to pass a nominal sentence of one hour (hear, hear); or, if for a longer period, he might have accompanied the sentence by a statement that the case was not one in which the sentence should have been carried out. Well, the judge did neither of those things. When the memorial came down from Toowoomba, and was referred to the judge, he said it ought to be acceded to; but he gave no reasons, nor showed further evidence why the prisoner should be pardoned; he merely revised the decision of the jury. That placed the government in a very difficult position, indeed. Certainly, the practice would have been in England, that the judge would either have passed a light sentence, or would have recommended the prisoner to the merciful consideration of the Executive. He (the Colonial Secretary) should certainly not like to concur with the house in any interference with the royal prerogative of mercy, nor with the administration of justice—because the affirming of the motion would be an interference with the high functions of a Judge of the Supreme Court, (“Oh,” and “hear, hear”), and it would be a dangerous precedent. He should prefer to hear the opinions of other hon. members before the house divided; but rather than that the motion should be passed he would take the sense of the house in another way. If the sense of the house was in favor of a remission of the sentence of Jonathan Harris, after what had been stated, upon the house distinctly making known their opinions to that effect, the government would be ready to advise his Excellency to remit the sentence of Jonathan Harris. (Hear, hear.) Before the house did this he should like to hear hon. members give further information on the question. (Hear, hear.)

Mr. LILLEY had had an opportunity of seeing judicial proceedings at home as well as in this country, and had also had some experience at home in connection with the duties of sheriff; and he thought he could take upon him to say, from what he had heard in courts of justice at home, that to a very great extent the Judges were, from their places on the bench, able to say how far the prerogative of mercy could be extended to a prisoner. In once instance, he had known the decision of a Judge who held out no hope of mercy to a prisoner overruled; but he never knew one in which the Judge's recommendation to mercy was disregarded by the executive. (Hear, hear.) He did not think the conduct of Mr. Justice Lutwyche inconsistent. He reviewed the circumstances of the case as set forth in the papers before the house, and as described by the hon. member for Warwick; and he adduced many reasons for believing that those circumstances were correctly stated. While he agreed with much that the Colonial Secretary stated—that the house ought not to meddle lightly with the prerogative, ("hear, hear," from Mr. Jones)—he thought that under the whole of the circumstances the house could safely recommend the Executive to extend mercy to the prisoner, Jonathan Harris. If the motion were pressed to the vote he should vote for it.

Mr. BLAKENEY regretted sincerely that the executive had not thought fit to advise his Excellency to exercise the royal prerogative in the first instance; at the same time, he admitted that the house was establishing a very dangerous precedent. He certainly hoped that nothing would appear on the records of the house that they had made an attempt to interfere with the prerogative. He hoped the executive would reconsider the matter, and that for the reasons stated by the hon. member for Warwick the case of Jonathan Harris would be most favorably considered.

Mr. O'SULLIVAN would vote for the motion, having no fear of the interference with the royal prerogative.

Mr. BELL was willing to leave the question to be dealt with in a way that it should not be held as a precedent for any future case.

Dr. CHALLINOR was almost inaudible, but was understood to lean to the side of mercy.

Mr. TAYLOR was not favorable to the motion; neither was Mr. FERRETT.

Mr. R. CRIBB would vote for the motion.

Mr. GROOM strongly supported the motion.

Mr. RAFF would vote for the motion, for he could not see that its passing involved any interference with the prerogative of the crown.

Mr. JONES, in reply, stated that his object was gained in the expression of the opinion of the government, through the Colonial Secretary; and he was now satisfied to leave the case in the hands of the government, being confident that they would act according to the sense of the house. (Hear, hear.) He asked leave to withdraw the motion.

The motion was accordingly, by leave, withdrawn.

The house then adjourned for refreshment, and resumed at 7 o'clock.

MANAGEMENT OF PRISONS AND LOCK-UPS.

Mr. JONES moved—"(1.) That a select committee be appointed, with leave to sit during any adjournment, and power to call for persons and papers, to inquire into the internal management of the prisons and lock-ups and penal discipline of the colony. (2.) That such committee consist of the following members, viz.:—Mr. Lilley, Mr. O'Sullivan, Mr. Groom, Mr. Bell, Mr. M'Lean, Mr. Macalister, and the mover." There were a great many matters in connection with the management of prisons which he and many hon. members desired to be informed upon, and one thing which he would mention, as having more particularly struck his attention, was the manner in which prisoners were forced to sleep on the boards of their cells, without mattrass or blanket. (Hear, hear.) This was not in accordance with the enlightened times, and should at once be seen to. But, in addition to this, he was of opinion that the committee, if appointed, would of necessity bring out a great deal of information which would be of use to the government in any

action they might afterwards take; and he had no doubt a great deal of good would be done by the appointment of such a committee.

The COLONIAL SECRETARY could not see any reason why he should withhold his opinion on that subject, and he would be understood as expressing an opinion not confined to himself; it was simply if there was any cause to mention the treatment which prisoners received, he thought it might be said they were too comfortable. (Oh, and hear, hear.) He saw that he must do the unpopular on this as well as other occasions, leaving the popular to be done by hon. members on the opposite side (laughter); but while doing what he was satisfied was right, he did not fear unpopularity (hear), and as for any increase of comforts to prisoners he would oppose it tooth and nail, as long as he could, he would only allow them discomforts as part of their punishment. He knew the arrangements in Brisbane gaol were at present most unsatisfactory; the wards were small and were undoubtedly overcrowded, but when the government were enabled to remove the lunatics to another place, there would be more accommodation. The gaoler he believed to be thoroughly competent, none more so, a man fully qualified to fill the position he held, and if the alterations recommended by him were carried out they would meet all the requirements of the court without a select committee. He would not support the motion.

Mr. FORBES could not agree with all the Colonial Secretary had said; but did think, if the prisoners were sent to gaol for punishment, let them be punished; let them labor also, be made of benefit to the colony, and, instead of the gaol being made a place of ease and comfort, where parties were only too glad to return to, he would have it a place of punishment.

Mr. HALY, regarding the apparent mania for special committees on all matters as something enormous, would ask whether it would not be as well that hon. members should move a vote of want of confidence at once, and get the conduct of affairs in their own hands? (Hear, hear.)

Mr. RAFF, in reply to the Colonial Secretary's remarks about popularity, might say that he for one on that side of the house never did the popular. ("Oh," and laughter.) He would say, however, that he expected to have heard more of the abuses or mismanagement of gaols from the hon. mover of the motion than he had heard. He knew that a number of sailors were always confined in the gaol, and refused to ship when asked. The sailors were too comfortable, and could even see female immigrants occasionally (hear); he might mention that what was punishment for one man was not punishment for another. He would not support the motion, however, as they had been going in too strong for committees lately. (Hear, hear, two to day.) (Three to-morrow, from the Chief Secretary.)

The COLONIAL TREASURER stated it to be the intention of the government to inquire into the matter of the overcrowding and imperfect classification of prisoners in Brisbane gaol, the only gaol in the colony. He was aware that the overcrowding did arise in a great measure from there being so many sailors confined in at times, the same thing led to the imperfect classification, but, however bad the latter might be, he would positively state that women were not allowed to visit as had been stated except under proper regulations once a week. (Hear.) The hon. member who had made that assertion had hazarded a statement not in accordance with facts. He anticipated considerable alteration for the better on the removal of the number of lunatics at present confined in the gaol.

Mr. LILLEY thought a committee unnecessary after the matter had been brought before the government in that house, no doubt they would take the proper steps to remedy matters at once, he had only to refer hon. members to the squeezable nature of the hon. member at the head of the government to prove that—(the hon. member was proceeding to illustrate his remark by referring to some circumstance which had occurred at another time when the Colonial Secretary interfered). Mr. Lilley then continued: he never saw such a place as the lock-up at Cadoona diggings, which had been created at the time of the rush. The place was a mere collection of miserable boxes, which from being small and from the nature of the climate, were rendered a disgrace to the country, and unfit to place a human creature in. He did see the necessity for the committee if for no other reason than to inquire into how it was that the sailors referred to were made to herd with felons and criminals of the deepest dye? He would support punishment certainly, but not torture; perhaps the Colonial Secretary, who had but lately come from England,

where he was very likely horrified by the statements about prisoners and dreadful tales of their guilt, and their kind treatment in gaol afterwards, with all these things impressed on his mind. (The Colonial Secretary: No, I've heard them of the gaol here.) Well, it might be so, at all events he would support the motion.

Mr. TAYLOR would oppose the motion; committees never did much good, at least he remembered that out of thirty-two appointed during one session in Sydney only five had their reports adopted. He had been on committees and knew their working; every man on them had had an object in view but himself. (Oh, oh, laughter, and cheers.) The hon. member for Warwick had said the prisoners had to sleep on board, without blankets; he could tell the house that he had slept on the ground without blankets. The hon. member would have it that the prisoners were badly used in every particular (Mr. Jones: No, I did not say so); but it was the argument, (hear, hear), and the hon. member for Ipswich (Mr. Forbes) had stated quite the reverse; two members of the opposition side of the house entirely disagreeing. It had also been stated by another hon. member of that side that the luxury of women was allowed the prisoners. (Laughter.) He hoped they had heard the last of special committees for the season, and that the government being sufficiently cautioned the motion should be withdrawn. As to the hard labor itself he had a servant who was punished for misconduct by three months of it, and all he had to do was to clean the gaoler's stirrups. (A laugh.) Of course when he came out of gaol it was only to go back again;—this occurred under a former government. He would not mention that as he had not been appointed on a committee during the session, if elected now, or at any other time, he would not act. (Oh, oh.)

Mr. RAFF explained his remarks as to the women visiting the gaol as applying—not in the way the hon. member for Western Downs had supposed.

Mr. TAYLOR might also explain that if the hon. member had not said so as plainly as he had put it the meaning was the same. (Laughter.)

Dr. CHALLINOR would not be one to expect more from the government than they could do, he would take their promise to have the present matters obviated as soon as possible.

Mr. O'SULLIVAN had heard the promise of the hon. the Treasurer to inquiry into the matter, but he was not sure that the inquire would not be similar to that of the Julia Percy. (Hear.)

After remarks from Mr. R. CRIBB and Mr. BLAKENEY,

Mr. JONES replied he never intended by that motion to embarrass the government, but to relieve it. How was it possible for the Colonial Secretary, the Treasurer, or any other of them in that house to spare time to go into the inquiry as a committee would, and what time had their friend who had taken his departure from amongst them and gone to another and a better place (laughter) to inquire? Now, he believed he (the Speaker) would let the motion go to a division despite the advice of hon. members who habitually suggested the withdrawal of motions. As a member of the house he claimed the right to make the motion, and he felt he would have no right in that house if he could not constitutionally inquire into such matters.

Mr. M'LEAN objected to his name being on the committee.

The COLONIAL SECRETARY, in case of the motion being carried, would move that the committee be appointed by ballot.

The question was then put and the house divided—Ayes, 8; Noes, 13; the motion was therefore lost.

COMMISSION OF INQUIRY.

Mr. RAFF moved—"That an address be presented to the Governor, praying that his Excellency will be pleased to cause to be laid on the table of this house a copy of the commission issued to Charles William Blakeney, Esq., in the case of Mr. Henry Boyle, Crown Lands Commissioner; together with the amount of fees and expenses (if any) paid him for holding said commission."

The motion was put and carried.

DISQUALIFICATION OF MEMBERS.

Mr. RAFF moved—"(1.) That the copies of Commissions issued to John Gore Jones and Charles William Blakeney, Esquires, members of this house, and the returns of fees and expenses paid to them respectively, be referred to the committee on elections and qualifications. (2.) That such committee be instructed to report whether those members have disqualified themselves by the acceptance of such commissions, and the fees and expenses referred to." In making the motion he would abstain from going into the merits of the case at all; he read the 72nd clause of the Electoral Act as that under which he said the house had the power to refer the matter to the Elections and Qualifications Committee. He thought there was a case for inquiry.

Mr. O'SULLIVAN suggested that the motion be altered to bring the inquiry under the Constitution Act, as it should be.

Mr. JONES, as a party interested, requested the house to deal with him summarily. (Hear, hear.) He objected going before a tribunal which had not the power properly to deal with the case, as it was made perfectly clear to any lawyer, or man of sense, by the 72nd clause of the Electoral Act, that the tribunal mentioned was one to deal with members who might have been unduly or improperly elected, and not with a gentleman who had sat in that house for a time. If he had done wrong—had committed any offence—deal with him under the 19th section of the Constitution Act; but a still better way was, for any hon. member then to move—fairly and above board—that, if he had done wrong, he should be disqualified, and he would stand or fall by the decision of the house. (Hear, hear.) The facts were well known, and it was patent to every one that he had not held any office of profit during pleasure, but acted as Crown Prosecutor at Maryborough, for which he received fees to cover travelling, &c., and he would have done as much or as little for any private individual. The house might deal sudden death to him—(a laugh)—by taking the matter up in the manner suggested. He was not frightened to meet the matter, and if disqualified was sure, that on an appeal to his constituency, he would speedily be back again—(hear, hear, and laughter)—which was more than some hon. members could say with as much certainty (Laughter.) He therefore said, if they intended that he should go, let him go at once. (Laughter.)

Mr. WARRY would be satisfied on the question of profit if the two hon. gentleman named in the motion could satisfy him that they would have earned more by stopping at home than they had by accepting their commissions. (Laughter.)

Mr. LILLEY referred to the 19th section of the Constitution Act, and the 77th section of the Electoral Act, and showed conclusively to the house that the committee of elections and qualifications was the proper tribunal to deal with the two hon. members.

Mr. TAYLOR offered his opinion on the propriety of the motion.

Mr. BLAKENEY said that being personally concerned in this matter, he thought it better that he should state that he was perfectly prepared to go before the committee as the proper tribunal. (Hear, hear.) He hoped he should be able to make his case strong before the committee, and he should certainly bow to their decision.

The COLONIAL SECRETARY perfectly coincided with the law of the case as laid down by the hon. and learned member for Fortitude Valley. The house must agree with him that the only course to adopt was to go before the committee of elections and qualifications. (Hear, hear.)

Mr. RAFF having replied,

The motion was put and agreed to.

BATHURST BURR BILL.

On the motion of Mr. M'LEAN, the second reading of the Bathurst Burr Bill was postponed till next day.

PASTORAL INTERESTS BILL.

Mr. FORBES moved the second reading of the Pastoral Interests Contribution Bill. He informed the house that the measure was almost an exact copy of a bill which had been introduced in the parliament of New South Wales by Mr. Robinson.

The COLONIAL TREASURER had not before an opportunity of looking at the bill, but he could not see in it anything desirable. It appeared to be a sort of universal panacea for the preservation of stock from all kinds of diseases, and like Holloway's pills, would rid them of all their ailments. There were already bills before the house that would press very heavily on the squatters, and it was not desirable to tax them further. He objected to the clause that proposed to appropriate all money derived under the Impounding Act to the remedying of pastoral evils, and to take it away from charitable institutions. The bill proposed to legislate for classes, as it contained a clause exempting all but large holders of stock from taxation for the purposes of the bill.

Mr. M'LEAN ridiculed the broad and universal plan proposed by the measure for the protection of all kinds of stock against all manner of diseases.

Mr. R. CRIBB thought that it would be preferable to have one tax from which the expense of eradicating the burr, destroying native dogs, and preventing the scab, should be defined, instead of a separate bill for each evil. He considered the hon. mover had been unfairly dealt with, and he concluded by hoping that the bill might pass the second reading, and have its details filled up in committee.

Mr. HALY said if he saw one clause in the bill calculated to advance the squatting interests he would vote for the measure, but as he could not he would not vote against it.

Mr. TAYLOR thought it would be a very hard thing for men who were too poor to keep sheep on their runs, but had to keep cattle instead, to have their cattle taxed for the cure of diseases in sheep.

Mr. O'SULLIVAN denied that there was any provision in the Bathurst Burr Act for taxation. The intention of the measure before the house was to turn all the taxes into one common fund and to make it self-sustaining. The object of some of the other bills was to throw the taxation on the general revenue, and not on the stock at all. He contended that the bill had been handled very unfairly, especially by the Colonial Treasurer.

Mr. COXEN opposed the bill.

The COLONIAL SECRETARY considered it would be very hard for those squatters who were required to pay for the eradication of the Bathurst burr to be compelled to pay also for the extinction of scab on runs when their own stock was unaffected. It was very singular that the bill which professed to be for the benefit of the pastoral interests, was generally opposed by the squatting representatives, and supported by the members for the large towns. One reason might be that the corporations would be enabled under the bill to come upon the squatters for the eradication of the burr from their city streets.

Mr. ROYDS moved, as an amendment, that the bill be read again that day six months.

Mr. FORBES thought that the time might soon arrive when honorable members on the opposite side would be able to perceive the necessity of such a measure as the one he had introduced. He regretted for their sakes that they could not appreciate it already. He considered that many hon. members had not been able to see the necessity of the proposed amalgamation they complained of, simply because they had closed their eyes and were unwilling to see. This bill had not met with the treatment it deserved, neither had it been fairly handled either as to its principles or details.

After a few remarks from Dr. CHALLINOR and Mr. GROOM,

Mr. TAYLOR maintained that to tax cattle for scabby sheep was infamous. Cattle did not pay 5 per cent. on the outlay;—sheep were, perhaps, somewhat better. He objected to the bill on the principle that no cattle owner should be made to pay for the scabby sheep. He believed that scab was in Queensland at the present moment, and, therefore, he should oppose the bill.

Mr. O'SULLIVAN could not understand upon what premises the hon. member who had just spoken had drawn his conclusions. It was entirely wrong to suppose that the bill would compel a man rearing cattle to pay for scabby sheep.

The house then divided on the original motion, with the following result: Ayes, 6; Noes, 12.

The amendment was therefore carried.

HAWKERS' LICENSES AMENDMENT BILL.

The house resolved itself into committee for the consideration of this bill.

After a few verbal amendments, the house resumed, and the chairman reported the bill to the house.

QUARANTINE BILL.

The house went into committee on this bill.

The various clauses were passed without amendment.

The house resumed, and the chairman reported the bill to the house.

CORONERS' INQUESTS ON FIRES BILL.

On the motion of the COLONIAL SECRETARY the bill was read a second time.

The house then adjourned at 25 minutes to 11 o'clock, till 3 o'clock this day.