Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

TUESDAY, 2 MAY 1871

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ERRATA.

Page 37, column 2, lines 30–31 from top, *for* "Wide Bay," *read* "Fortitude Valley."

Page 138, column 2, line 21 from top, *for* "Barnett," *read* "Bullen."

Page 228, column 1, line 16 from top, *for* "discredit," *read* "credit."

Page 236, column 2, line 18 from top, *for* "Pring," *read* "Cribb."

Page 300, column 2, line 8 from top, *for* "Secretary for Public Works," *read* "Secretary for Public Lands."

LEGISLATIVE ASSEMBLY.

Tuesday, 2 *May*, 1871.

Adjournment — Personal Explanation. — North Brisbane Cemeteries.—Land Orders Bill.—Insolvency Bill.

ADJOURNMENT—PERSONAL EXPLANATION.

Mr. JOHNSTON moved the adjournment of the House for the purpose of making a personal explanation, respecting the position he had occupied as one of the commissioners in the matter of the Brisbane and Ipswich Railway, and the report which had been agreed to on the subject. It had been stated that he had agreed to the report unconditionally; and a paragraph appeared in the *Queensland Times* stating, in effect, that as he had pledged himself that he would oppose the extension of the railway to Brisbane, he had, by consenting unconditionally to the report, abused the confidence which had been reposed in him by his constituents. It had also, he understood, been said that a motion would be brought forward to have his seat in the Assembly declared vacant, on the ground that he had received five guineas a day for his services as one of the commissioners. Now as to the allegation that he signed the report unconditionally, he most emphatically denied its accuracy. When he, as a member of the commission, signed the report, he denied that it was borne out by the evidence; and he also stated that when the proper time came he would take occasion to state the reasons he had for saying so. It had been stated, so he had been informed, that he had received five guineas a day for his services. Now that was not correct, for all he had received was merely the repayment of the amount he had been actually out of pocket in travelling to attend the meetings of the commission. As the accusations to which he referred had, he understood, emanated from members of the Legislative Assembly, he thought he would not be considered out of order in contradicting them, and making this explanation in the House. The report, and the evidence attached to it, would, he believed, fully satisfy the House that the further extension of the railway would entail great additional expenditure, and would not have the effect of being proportionately reproductive to the colony. He therefore maintained that, on public grounds, he was justified in the course he had taken in the matter. Having made this explanation, he would now withdraw the motion.

NORTH BRISBANE CEMETERIES.

The COLONIAL SECRETARY, in reply to a question by Dr. O'Doherty, said that no arrangements had yet been made for the closing of the present North Brisbane Cemeteries. If honorable members desired any further information on the subject, he was willing to give it. He might state that when the ground which was set apart for the purposes of a new cemetery was examined, it was found that it would be altogether unsuitable. He did not himself profess to be any judge in such matters; but the trustees had recommended that a paddock in the neighbourhood of the Three-mile Scrub, and belonging to the honorable member Mr. Edmondstone, would be suitable. It was stated at the time that the ground to which he referred was cleared and fenced, and that it was well adapted for the purposes of a cemetery. The paddock in question amounted to about 136 acres; and along with his honorable colleague, the Attorney-General, he had visited it; and he found that it was only partially cleared, and that there was a great deal of heavy timber on the ground that would have to be cut down. The extent of the paddock was, as he had stated, 136 acres, and the amount which would be required for its re-purchase was more than he was prepared to recommend to the House. He thought that for some time a much smaller area would be sufficient. Then, again, honorable members should bear in mind the probable extension of the railway between Ipswich and Brisbane. That was a work which, no doubt, would have to be carried out some day or other; though he was not prepared to say that the colony was in a position to undertake it at the present time; but when it was carried out, a more suitable place than any other which had yet been recommended, might be found along the course of the line. If the trustees of the burying ground could shew that there was a suitable piece of ground of smaller extent that would do for the present, within a reasonable distance of the city, he might feel disposed to recommend that it should be re-purchased. He could not, however, recommend the re-purchase of so large a paddock as the one belonging to Mr. Edmondstone.

LAND ORDERS BILL.

The ATTORNEY-GENERAL moved, that a Bill for the Cancellation and other disposal of Non-transferable Land Orders, be read a second time. In doing so, he said that the object of the Government in bringing forward this measure was to provide that it should be in the power of the Government to act as liberally as possible towards the holders of land orders—having at the same time due regard to the justice that was due to other inhabitants of the colony. It would, therefore, be necessary for him, at least cursorily, to glance at one or two of the provisions of previous Acts. The non-transferable land orders, issued under the provisions of the Immigration Act of 1864, were only available in behalf of those to whom they were issued; and it was not intended that those land orders should have a longer currency than two years from the time of the arrival of the immigrant in the colony. By another clause, in the same Act, however, it was provided that the Government should be

allowed to make an advance to the extent of six pounds, on each order that might be deposited in the Treasury—which advance would, of course, be returned to the owner of the land order on his repaying the amount so advanced, with interest, at a reasonable rate. Now he wished to inform the House that this provision had been taken advantage of to a greater extent than was expected when the land-order system was originated. At the present time there were about £53,000 worth of unredeemed land orders in the Treasury. Those land orders had practically lapsed, or at least the greater portion of them; but under the Act of 1867 it was not possible for the Colonial Treasurer to cancel them; and it was in order that the Treasury might be able to write them off that this Bill had been introduced. It had been found that the principle under which the land-order system was introduced was unworkable, and several changes had since been made from time to time. In consequence of some serious abuses which crept in, new regulations were issued for the purpose of correcting them. That was particularly the case in 1868, when it was determined that no non-transferable land orders should be received by the Government, unless they were presented by the persons to whom they had been issued. The several changes that took place continued up to October, 1870. The object of the Government in all cases had been to enable the public to have the full value of their land orders. The intention of the several Governments was, no doubt, exceedingly good, but the result had been very different from what was anticipated at the outset. Now, by certain proceedings that took place before the Supreme Court in the matter, the regulations of 1868 were declared to be illegal. According to that decision, there was no power to enforce the *bonâ fide* holder of a land order to make use of it within the time specified by the Act. In consequence of there not being such a power, there were land orders to the large amount he had named still outstanding. Now it was proposed by this Bill that the holders of such land orders should be able to make use of them up to the 31st of March, 1872. The only conditions imposed on the holders of such land orders were, that they should present them either at the Treasury or at the local land office, and give satisfactory evidence that they had resided in the colony the length of time required by the Act. He thought honorable members would agree that in this respect the measure was a very liberal one. He might state that if the holders of land orders declined to take them up within a specified period, the Treasury would have the right of cancelling them. It was about eighteen months since the Act granting land orders was repealed; and he had no doubt, therefore, that there were but few which had not arrived at maturity. He did not think that this could be regarded as a harsh measure. As he had stated, there were about £53,000 worth of land orders outstanding, most of which were overdue. Now, it was proposed by this Bill to give the holders of those land orders an extension of time, to avail themselves of them—namely, up to the 31st of March next year—but it was provided that the persons presenting them should afford satisfactory evidence that they were the persons to whom they had been issued. It was intended by that provision to meet the case of fictitious agents, who made it a trade to purchase land orders. The second part of the Bill related to the land orders at present in the hands of the Government, and which there was no prospect of being redeemed. Under this Bill any person presenting a land order would be at liberty for twelve months to take up such lands as he might wish. The Bill also provided that in the case of deceased persons their land orders should bear a certain value, and be available only to those who could produce satisfactory evidence that they were entitled to them.

Mr. KING said that the Bill, from the perusal he had been enabled to give it, appeared to him to be nothing less than an act of repudiation. Under the Act of 1864 it was ordered that land orders should be issued to persons who came to the colony, and who had paid their own passages. There was no limitation in that Act, as to the time during which such land orders should be available, beyond this, that the persons entitled to receive a land order should be resident in the colony for a period not less than two years before the deeds for any land he might desire to take up under it should be issued to him. There was nothing whatever in the Act which stated that he might not hold over his land order for more than two years, and then use it. He was aware of several cases of hardship that had arisen under the several land-order regulations that had been introduced. It was only a few days since he presented a petition to the House from a gentleman, resident in the neighborhood of Gympie, who, with a large family, arrived in the colony in 1867. He was a most industrious settler, and had £167 worth of land orders. He wished to purchase a certain piece of land, but when he tendered his land orders in payment at the district land office they were rejected; and, as he (Mr. King) understood, the land was afterwards sold for less than the value of the land orders. Now, he thought that honorable members would admit that such was a case of great hardship. As he had stated, the gentleman to whom he referred arrived in the colony with a large family; and he had proved since his settlement in the Wide Bay district that he was a *bonâ fide* settler. From all that he knew of the question, he did not think the House ought to repeal the Act of 1864, unless some stronger arguments were advanced than those which had been advanced

in support of their doing so. He considered that, with respect to the matter of land orders, a false step was taken by one of the latest Acts on the subject, by which the transfer of land orders was prohibited. Those land orders were issued for the purpose of encouraging immigration and settlement on the land. Now, it was a special instruction to the Agent-General, some years ago, that female servants, who were in great demand, should be induced to come out here; but it could not be supposed that they should take up land and settle upon it. What those persons expected was that they would be able, on their arrival here, to dispose of their land orders, and in that way be repaid the amount of their passage money. Under the original land order system, it was possible for them to do so; but that was put a stop to by the Act, which provided that land orders should not be transferable. Now, because of what he had seen of the operation of the latter Act, he thought that the course proposed by the measure before the House was not a wise one. He thought it would be better to return to the original system, and make all land orders transferable on its being satisfactorily proved that the holder had resided in the colony for the required term. Another objection he had to the measure was this, that a person who arrived in the colony and had to proceed to the interior would be under the necessity of travelling a long distance when the land order became due in order to recover its value; because that could not be done by an agent, on account of the order being non-transferable. In many cases that course would occasion very great expense to the holder of the land order. If the owner pledged it to the Government or any pawnbroker, he had a right personally, or by his agent, to redeem it when he liked, on payment of the amount advanced on interest for the time being—and he ought not to be required to do more.

The SECRETARY FOR PUBLIC LANDS said he thought that the decision which was come to by the Supreme Court in the case which had been referred to, was a wrong one, inasmuch as he did not think the judges had taken into consideration the fact, that it was the duty of the Government, while desirous of doing justice to the individual, also to protect the public against fraud. Well, in consequence of the decision to which the Supreme Court came in the matter, it was found necessary that provision should be made requiring the personal attendance of holders of land orders, when those orders were presented at the local land office. It was well known to honorable members that a great portion of the most valuable portions of the country had passed into the hands of those who trafficked in land orders. He had heard it stated, that one person who trafficked in land orders had said that he could at any time produce the owner of the land order he might present, at the cost of a few shillings, which, in his opinion, meant that he could get someone to personate him. Now, such being the case, he maintained that it was necessary a measure of this kind should be passed, in order to prevent land orders passing into the hands of unscrupulous persons. The honorable member for Wide Bay had said, that unless land orders were made transferable, they would have no commercial value whatever; but in saying so, the honorable member must have overlooked the fact that the land order was simply a permit to the *bonâ fide* holder, to go over the country and take up such land as, being open for selection, was suitable for his purposes.

Mr. FYFE said he understood that last session a committee was appointed to inquire into the whole question of the land-order system, but that it did not meet. It had been said that there was only about half-a-dozen cases in dispute; but, he maintained, that if there was only one case in which the right of any individual was involved, the House should order that inquiry should be made.

Mr. JORDAN said he believed that the Bill, from the perusal he had been able to give to it, would, if passed into law, have the effect of causing injustice to many persons in the colony. The land order system had undergone so many changes since it was first introduced, that he believed there were very few persons who understood it, or could follow it through all its complications. If the system, as originally proposed, had been left alone, he believed it would have worked well; but owing to the tinkering that had taken place from time to time with respect to land orders, many persons who had come here had been losers to a considerable extent. The plan as at first introduced, was, he thought, an admirable one, and would have worked well had it been let alone; but, owing to the tinkering that had taken place, the greatest confusion had been produced. At first, land orders were available for the purchase of any unalienated lands, whether in the town or in the country, but subsequently they were restricted to the purchase of country lands only. On that account, many persons, as he had already said, were great losers. At the same time he must say that he did not think the alteration made by the Act of 1864, providing that certain land orders should not be transferable, was a wrong one. He thought that such a change was rendered necessary by the advantage that was sought to be taken of the land-order system in England by shippers, poor law guardians, and members of benevolent societies. But for that change the colony would have been inundated with a class of persons who were not at all suitable to the requirements of the colony, and who, perhaps, in many instances, it would be undesirable to have here. It was proposed by those societies that they should pay £5 passage money for each emigrant, to the shipper, and give him, in addition, the right to the £18 land order

That was the principle on which an emigration society was founded in Ireland, and which had been instrumental in sending out a large number of most useful and industrious people to the colony; but advantage was sought to be taken of the principle to send out persons of an undesirable class. He pointed out to Mr. Herbert, when that gentleman visited England, that such a system was likely to lead to trading in land orders; and, subsequently, that turned out to be the case. Many persons, on arriving in the colony, for instance, were told that the country was not suited for agricultural purposes, and, believing in such representations, they sold their land orders cheaply to others, who availed themselves of them to the full extent of their value. Now, he thought, therefore, that in making the land orders non-transferable was a step in the right direction, so far; but, he believed, it was a mistake to limit their application to country lands. The question as to how long the land orders should be available was a difficult one to deal with; but, for his own part, he thought it would be very unjust, indeed, to many persons, if a limit was set to the time when they should be available. He thought, however, they should be available only to the original holders, and that in their case, solely for the purchase of land. He could assure the House, that many persons who had come out to the colony had, by their land orders, taken up land, and were now in very comfortable circumstances; and, in proof of that, it was only necessary for him to refer to the district he had the honor to represent. He believed that if immigrants had not been induced to pledge their land orders with the Government for £6, a great many more people would have been settled on the land. Many persons who had obtained land orders, and had pledged them with the Government, had gone into the bush, and would not, on that account alone, be able to redeem them within a limited period. Holding those views, he must oppose the motion for the second reading of the Bill.

The COLONIAL TREASURER said it seemed to him that the measure, instead of proving to be an act of injustice, would, on the contrary, be found to be an act of justice. The time for the redemption of land orders had been extended on several occasions, and it was proposed by this Bill to grant a further extension. He did not think that many of those persons who had left their land orders in the hands of the Government were now in the colony. He believed that most of them had left the colony. At the present time there were £86,000 worth of land orders outstanding, including transferable orders and those for the encouragement of the growth of cotton, and £72,602 worth were non-transferable. But of those there were £53,119 worth in the hands of the Government, as deposits for advances made upon them. Under the Immigration Amendment Act of 1867, none of those orders could be written off, although it was well known that many of the owners of them had left the colony long ago. The consequence was that the Treasury accounts shewed a debit of between £30,000 and £40,000 in excess of the true sum—that was of the £53,000 worth in the hands of the Government. Now the facts were these, that £30,555 worth were deposited before 1867; and £5,472 worth in 1867; in 1868 there was £4,788 worth; £8,190 worth in 1869; and £3,842 worth in 1870. He thought it might from that be safely affirmed that a great many of the owners of those land orders had left the colony. It was not fair, he held, to assert that the Bill, if passed into law, would have an unjust effect in any case, inasmuch as it extended the time for the redemption of all outstanding land orders for a further period of two years. He considered the measure was a very liberal one, and that it was therefore one which ought to be passed by the House.

Dr. O'DOHERTY said that on the previous day certain papers had been placed in his hands which shewed the great injustice that would be inflicted upon, at least, one person by the passing of this Bill; and he had no doubt there were many others similarly circumstanced. He referred in particular to the case of a man named George Evans, who bid for land at the last land sale at Beenleigh, and when he tendered his land order in payment it was refused. The attorney for this man applied to the Colonial Treasurer to permit the land order to be available, and the answer that was received was to the effect, that in consequence of the decision which had been come to by the judges of the Supreme Court, in the matter of non-transferable land orders, his land orders could not be received until there was further legislation on the subject. Now it appeared to him that such an answer was incompatible with the passing of this Bill, because by one of the clauses it was required that the man to whose case he had alluded, and others who were similarly circumstanced, should redeem their land orders within a certain time next year. He did not think it was likely that the House would legislate in such a manner as to contradict the opinions of the judges of the Supreme Court. If the House was to pass this Bill, as it now stood, the effect of it would be to preclude many persons from availing themselves of their land orders. If the Bill were passed, it would amount to the House authorising the Government to repudiate the engagements that had been entered into with the holders of outstanding land orders. Many persons who had resided in the colony for two years, at least, were told on presenting their land orders in payment for land they had purchased, that their land orders could not be received until there was further legislation on the subject—and now the House was asked to pass this Bill, which proposed that any outstanding land order

should not be available after the 31st of March next year. Now the House, he was certain, would not agree to pass a measure that would have the effect of doing an injustice to any one, more especially in the case of those who came out to the colony on the understanding that the land orders issued to them at home would be available on their arrival here for the purchase of land. He hoped the House would come to a similar decision as they came to last session, when the subject was before them; and that was, that the whole question as to land orders should be referred to a select committee for inquiry.

Mr. THORN said that, after the lengthy speech of the honorable member for Wide Bay, it was unnecessary to say much on the Bill; but he must oppose the second reading, if pushed to a division. He would ask the honorable and learned Attorney-General what was the real object of the Bill? Did not the Act 31 Vic., No. 31, give the holders of non-transferable land orders an indefinite period for redemption; and, in that respect did it not differ from the Act of 1864? No provision was made in the Bill to meet the case of those persons who had what might be called "remanet" land orders, or "tail ends"; and he knew several, in his own district, who had them, and were unable to make any use of them. For instance, a man who had taken up one hundred acres of land under the Act of 1868, at one shilling and sixpence an acre—£7 10s.—and sixty acres more under the Leasing Act of 1866—£7 10s. also—had a balance in favor of his non-transferable land orders of £22 10s. each, which he could not utilise. Being settled on his selections, such a man was of value to the country; his land was occupied and improved. But all the land around him was taken up, and he could not extend his selections. He could not afford to give up his selections to go elsewhere—so, it would seem, the balance of his land orders was of no use to him. He (Mr. Thorn) thought that the Bill ought to make some provision for persons so situated. They should have transferable land orders issued to them within twelve months for the whole amount of their remanets or tail ends—the balance should be available to them, and not be valueless. With regard to the £53,000 worth of non-transferable land orders in the Treasury, there was no necessity for a Bill to deal with them; as under the existing law they would work themselves out. By the Immigration Act of 1867, twelve shillings per annum was to be paid on the advance made to the immigrant who pledged his land order; and that interest would, in time, work off the whole amount. Hence there was no earthly necessity for the Bill, if it was intended merely to cancel those land orders in the Treasury. He looked upon the Bill with mistrust, as an act of repudiation. He thought the Government and the House might as well repudiate the interest on the colonial debentures, as repudiate the right of the holders of land orders to make use of them when they pleased. If the Bill passed the Assembly, it would not pass the Legislative Council.

Mr. LILLEY said it was his intention to support the Bill. He was really at a loss to conceive how honorable members could see repudiation or any peculiar hardship in this matter. It appeared to him that certain land orders had been issued under the statutes that had been passed, which land orders were available for a certain period. From time to time indulgence had been granted, either by statute or by regulations of the Government, to parties holding those orders; and, now, it was proposed, in fact, to grant them a still further extension of time. What hardship was there in that? It seemed to him that the case stated by the honorable member for Brisbane, Dr. O'Doherty, was a violation of the law. Let the man aggrieved sue the Government, if the law was with him and against the Government. There were, he (Mr. Lilley) perceived, certain effects to flow from this Bill which to his mind should prove beneficial to the holders of non-transferable land orders, because they were not connected with the rights or remedies of the parties who had those land orders. The third section gave until the thirty-first of March, 1872, to persons holding non-transferable land orders to exchange them for transferable land orders, or to use their non-transferable land orders in the purchase of Crown land. He supposed the Government would have land in the market for the purpose. Then, in the sixth section, the non-transferable land orders redeemed by the owners would be available for the purchase of land for twelve months after the date of redemption. This appeared to him (Mr. Lilley) highly beneficial, as it conferred advantages upon persons which they did not now possess, and was calculated to carry out the wish of the House, and what had been the wish of previous Parliaments—the prevention of jobbery in land orders.

Mr. ATKIN said it was his intention to support the second reading of the Bill, as he thought it was an extremely beneficial measure; though, perhaps, some alteration could be made with advantage in committee. It would be in the recollection of the House that he introduced, last session, a motion for a select committee to inquire into the land-order system; and that he had been pledged to bring the subject forward this session; but, seeing that the Government had promised to initiate legislation, he could not, of course, think of moving in the matter himself until he had seen the Government measure. The grievance which had been brought forward by the honorable member for Brisbane, Dr. O'Doherty, reminded him that he also had one in his pocket—that of W. Carr, who had attended at a Government land sale, held in Brisbane, and tendered

in payment for land certain land orders, which land orders were refused, simply because they were more than two years old. The Bill, as far as he (Mr Atkin) could understand it, was one exactly to meet such a grievance as that. Under its provisions, a man would have another twelve months to make his land order available. It was surely no hardship to persons who had been holding on to their land orders, that the Government should cancel them, if they did not avail themselves of them during the next twelve months. The Government had not issued the land orders with the intention that they should be carried about for ten or twelve years in the pockets of the owners. As far as the second part of the Bill was concerned, he confessed he was not so well acquainted with the subject as some honorable members who had spoken in the debate. He believed, himself, that there were a great many things to be done by legislation on the subject, to put a stop to the jobbery which the House had been told by honorable gentlemen on the Treasury benches was going on now. He thought they could obtain a vast amount of information from honorable members who sat on the Ministerial side of the House, as to the way in which lands had been taken up with non-transferable land orders. Probably the honorable members for Western Downs would favor the House with their experience as to how land had been taken up in large quantities by them. He had been informed by an agent, that those honorable gentlemen had availed themselves largely of those land orders, in purchasing the pick of their runs. It was desirable that the House should have some information on the subject before the close of the discussion.

The COLONIAL SECRETARY expressed himself surprised at the discussion which had arisen. He was quite certain, he said, that honorable members did not understand the Bill, or the House would never have heard the arguments that had been advanced against it, especially by the honorable member for Wide Bay. That of his honorable friend the member for West Moreton, Mr. Thorn, was unanswerable; it was most excellent. The honorable member for Wide Bay had made use of one of the most extraordinary arguments he (the Colonial Secretary) ever heard, founded on the Act of 1864, which had been repealed long since. There was hardly a female domestic servant affected by the land-order system. Female domestic servants who got free passages did not get land orders.

Mr. KING: It did not follow that they got free passages.

The COLONIAL SECRETARY: Most of them did. The colony was so much in want of that class of immigration that those persons coming within it got free passages. The argument of the honorable member was, that those persons had been ill-treated, because their land orders were not transferable. In fact, there were no land orders, at all, belonging to them. The case of George Evans had been cited by the honorable member for Brisbane. As far as he (the Colonial Secretary) could make out, Evans complained that he had not been allowed to make use of a land order at a sale at Beenleigh, because the time had expired——

Dr. O'DOHERTY: Oh, no! If he might be permitted to correct the honorable gentleman, he begged to say that the order, as shewed to him, distinctly exhibited the certificate of the Surveyor-General, that the land order would be available until 1872; yet, it was refused by the Government, according to a letter from the Colonial Treasurer's department, because of the decision of the Judges, until further legislation should take place.

The COLONIAL SECRETARY: That was one of the land orders in the same class as that which the celebrated action of "Barnett *v.* Tully" had brought to light. The judgment of the Supreme Court in that case was, that the Government had no right, by Executive minute, to make regulations as to non-transferable land orders not being received through an agent. Of course, if the Government had no right to make that regulation, they had no right to make a regulation extending the life of land orders. In the case of Evans, the life of the land order had expired, by effluxion of time, but it had been revived by Executive minute. As it had been held by the Supreme Court that the Government had not power to make regulations regarding agents, as a matter of course, regulations extending the life of land orders were ineffectual: both were made under the same authority, by Executive minute. The honorable member for Brisbane, Dr. O'Doherty, had proved a great deal too much for the party whose case he had brought forward. Taking the decision of the Supreme Court, it was the bounden duty of the Government to say they could not receive such land orders. So far from that being a reason why the Bill should be objected to, the Bill provided for those very cases—in which land orders had expired, and had been revived by Executive authority. He (the Colonial Secretary) presumed that the Judges never said that Parliament could not or should not do anything it might see fit! Several hard cases had, likely, arisen; and some had been mentioned in the newspapers. He had read one in a Maryborough paper, by A. Hutchinson, who wrote:—

"How would it look and read, if a copy of these facts were sent to every newspaper in Great Britain, and every paper in the colonies, as a warning to others? What use would an Emigration Agent be?"

It was to do away with those hardships that the Bill was introduced. That man would get relief under this Bill. He would have another twelve months to use his land orders —they would have a new life given to them which the Government could not give. That was the Bill the Government had brought in.

Where was the repudiation, he should like to know? The honorable member for West Moreton, Mr. Thorn, had stated the case of *bonâ fide* settlers who had used part of their land orders, and who could get nothing for their "tail ends." Well, that was no reason for voting against the second reading of the Bill. That could be amended in committee. He (the Colonial Secretary) could only say, on the part of the Government, that in any case where *bonâ fide* settlers had made use of part of their land orders, every facility would be given to them to make available the remainder of the land orders which were held by them, and which had been issued to themselves, either for the purchase of land or in exchange under the Bill. The great object the Government had in view was to do away with that trading and trucking in land orders which had been so great a disgrace to the colony. He believed that all land orders were bad *ab initio*. It would be a good thing for the Government to give a lump sum in cash for all of them, and to have done with them. He thought all successive Treasurers would tell the House that the land orders had thrown them out in all their calculations. They were one of the main reasons why the Treasurer's statements had never been realised or so fully carried out as honorable gentlemen had a right to expect. They never knew how many would come in. As to the land orders in the hands of the Government, and their repudiation—they would be confiscated, if they were not redeemed by the 31st March, 1872;—he said it was nothing of the sort. Repudiation! He knew, and every honorable member knew, that the probability was very highly in favor of the supposition that they would never be redeemed; and he knew it to be a fact, that in hundreds of cases where the land orders had been lodged with the Government, it was done by men who had simply taken them as enabling them to pay part of their passage expenses out to the colonies. The Government had instances of persons coming to Moreton Bay who never had the slightest intention of settling in Queensland. Those persons had gone to the Treasury, on arrival, lodged their land orders, got the advance, and left the colony forthwith for good. He knew of many such cases, when he first came into the House, and he had learnt many more since. The Government knew that hundreds and thousands of immigrants had so come out, and then gone away to the other colonies; they knew that all the navvies on the railways, for whom land orders had been granted, had gone away from the colony to New South Wales or Victoria, and were now dispersed beyond the borders of Queensland, as a rule. The probability was that out of that £53,000 worth of non-transferable land orders lodged with the Government, not £3,000 would be redeemed. Then, why should the Government go on with the farce of keeping them as a debit against the colony? It would be wound up in time, as the honorable member for West Moreton, Mr. Thorn, had said; but twelve shillings per annum would take a very long time to make up that amount. No harm would be done by the Bill. There was sufficient time for the owners of the non-transferable land orders to come in and claim them. He had heard it so often, that he who did a thing by another did it himself, that he was beginning to suppose it was a maxim of law; but if honorable members knew the amount of scheming that was carried on for getting hold of those land orders by parties who, he believed, had no title to them, honorable members would give a great deal of trouble to the *bonâ fide* owners to come and get them. But the owners were not asked to come to Brisbane; there was no centralisation; every person could go to the office of the land agent in the district in which he lived. There was another fault which had been found with the Bill, in the general conditions. It was stated that it would be a very great hardship on a man to be compelled to exchange his non-transferable land order for a transferable land order of only half the amount. He was not forced to do so; he need not take the transferable land order, although it was worth more in money to him than his non-transferable land order at the trifling amount which agents offered for it. The clause was to help those men who were holding non-transferable land orders without the slightest intention of taking up land. An owner could use his non-transferable land order for taking up land, or he could take a transferable land order and sell it. The Government had not only provided for the living, but also for the dead, in a very handsome way. Although they gave only one half of the non-transferable land orders to the living owner; yet to the persons who represented a dead owner it was proposed to give two-thirds. This distinction was founded on the principle that owing to death, a man that might otherwise have taken up land in virtue of his land order had made no provision for those dependent on him, and to favor the widow and the orphan. He (the Colonial Secretary) could see nothing unjust in the Bill. He did not say that it might not, in committee, be improved. The Government never suggested that any of their Bills were perfect, or asserted that they could not be improved in committee; but for the groundwork of the settlement of a much vexed question, the Bill was a very good one, and he hoped the House would affirm it.

Mr. KING, in explanation, said the Colonial Secretary had stated that he had quoted the Act of 1864, which had been repealed by the Act of 1869. The thirty-second clause of the latter provided that nothing contracted to be done, or begun under the former should be affected by the new legislation. Therefore, land orders issued under the Act of 1864 could not be affected by the Act of 1869.

Mr. DE SATGE said he should certainly vote for the second reading of the Bill. It was a step in the right direction; and he thought that there should not be in the colony such a thing as a non-transferable land order. If we wanted immigration, there must be no trammels on our system. Give the land and we should get immigration, and there would be nothing like a balance on hand of £53,000 worth of land orders. He considered that fact very much against immigration in this colony. The Bill could, he believed, be made a very liberal measure in committee.

Question put and passed.

INSOLVENCY BILL.

The ATTORNEY-GENERAL: Sir, I have now to ask the House to read, a second time, a Bill to amend the law of Insolvency, which is certainly an improvement upon the existing law, and which holds the first place in importance among the Bills which have come before the House this session. Though it has fallen to my lot to introduce this Bill, I cannot lay claim to any great originality in framing it; for out of the one hundred and fifty or nearly one hundred and fifty clauses of which it consists, five-sixths are taken almost verbatim from the English law which passed in the year 1869. I have paid considerable attention to this measure, and to its details, and I believe I shall be able to satisfy the House that it is one which deserves the most careful consideration of the House, and which, if passed into law, will be of considerable advantage to the country. It will effect a very great change in the law of insolvency, and I believe that change will be a great improvement. I have, therefore, no hesitation in asking the House to read it a second time, to-night. The first principle of all laws relating to insolvency or bankruptcy, is, to devise some means by which the estates of traders who can no longer carry on their business may be distributed among their creditors; and that the principle of distribution should be as fair, as speedy, and as cheap as possible. That principle, I regret to say, has not been successfully carried out by the laws which have hitherto obtained in this colony. Honorable members are aware, and you, sir, are aware, that, under the present law, the Insolvent Court is the refuge in many instances for men who wish to avoid paying their creditors;—men who, having failed, are able without any communication with their creditors, to take advantage of the Act, and in a very brief period, to pass out free men, and engage in business again. So that the law which is obviously intended as a protection to the honest trader, is, in many instances, availed of for their own purposes by persons to whom that title can scarcely be said to apply. During the preparation of this Bill I had occasion to refer to the returns of insolvents during the last five years, and the House will, I think, be somewhat astonished to learn, that out of 645 insolvents who have passed through the court during that period, there have been less than twenty who have been made insolvent on the petition of a creditor, and that the average dividend has been only fifteen pence in the £1; not fifteen pence in the £1 of liabilities, but upon the deficiency remaining after the available assets had been disposed of. These returns shew that there must be something wrong in a system which allows a man to pass through the court in such a way; and I believe that the chief cause of this evil has been the easy way in which insolvents are enabled to place their estates in court. The court is hampered with estates which will never yield a dividend, and therefore its time is wasted in hearing them;—for the debtors, in many instances, either give a bill of sale of their property to one creditor, to the exclusion of all the others, or else by post-nuptial settlements, make it over to their relatives, and then retire and live upon the proceeds, while the creditors have to content themselves with a ridiculously small portion of their claims. For many years the Parliament of this colony has been hoping to see its way to amend this lamentable state of affairs, and fortunately for this Parliament, the public mind of England has been drawn to the same subject. In 1861, just ten years ago, an Act was passed in England, which was adopted here with some modification. That Act has been found to work so unsuccessfully, that its repeal will meet with general approval. The system provided for by this Bill differs entirely from that hitherto adopted. The law at present vests in the Supreme Court the duty, not only of administering the law of insolvency, but of distributing the assets of the estate; that is the principle which I think underlies the whole of the present system. It is not the duty of the court to distribute the assets, and in this Bill we propose to leave the whole management of the estate in the hands of the creditors. And, sir, this Bill leaves it to the creditors to say whether the estate shall be administered in insolvency, and it deprives the insolvent of the power of taking his estate there. The foundation of all proceedings must be as it is now—an act of insolvency, but I need not dwell upon this point. As soon as the act of insolvency has been committed, and it has come to the knowledge of any creditor to the extent of £50, or any body of creditors, they may petition to have the debtor adjudged insolvent, which, upon proof being given, the court will do as a matter of course. And here I will pause to notice one very material alteration in the law:—When an order has been made adjudging a debtor insolvent, it is proposed by this Bill that the court shall summon a meeting of creditors, and, at that meeting, they shall appoint some fit person, to be called "trustee." This person is not an officer of the court, but he takes the same position as the official assignee, who is an

officer of the court, has hitherto taken. I believe this alteration will be both effective and advantageous. It will be the duty of the creditors to fix the remuneration of the trustee, who will not receive a fixed per centage, as the official assignee does now. It will be the duty of the creditors to decide upon the security which the trustee is to give for the due administration of the estate; and it will be their duty, at the same meeting, to appoint a certain number of their own body as a Committee of Supervision over the trustee; and behind this committee there will be the Court. The trustee will be charged with the general administration of the insolvent's estate under the direction of the Committee of Inspection, and the court will exercise its supervision over the whole transaction; and to the court, any debtor or creditor, or the insolvent himself, if he thinks fit, may appeal. Ample provision is made to give creditors power over the whole of the estate, besides summoning additional meetings whenever they or the trustee think it necessary to do so. The effect of the appointment of a trustee, with regard to the property of an insolvent, will be this—that, immediately upon his appointment, the whole property of the insolvent is vested in him; pending his appointment, it will vest in the Registrar of the court. Such has been the case hitherto in reference to the official assignee; but there is an addition to the law here of which we have felt the want very much in this colony, viz., the order and disposition clause. The effect of it is this—that if property is left in the hands of a debtor by the true owner, and the debtor is able to obtain additional credit by the possession of that property, he will not be able to hand it back, but the creditors will obtain possession of it in the person of the trustee. I think the powers given to the trustee under this Bill will have the effect of preventing persons from giving bills of sale in the wholesale way they have done hitherto; for, I may tell you, that under this clause a person giving a bill of sale will not be able to defeat the trustee if he leaves the property in the hands of the grantor. The trustee will have full power to manage the insolvent's estate, to carry on the business as far as it may be necessary, to execute deeds, to sell property, and, with the sanction of the creditors, to accept any general scheme of composition instead of waiting to carry out the administration of the estate to its final issue. Then, sir, while I am on this part of the Bill, I may point out another provision which, I think, will be generally approved. The trustee under this Bill will be bound to pay into a bank, either chosen by the creditors or the court, any money he may receive, and if he fails to do so within ten days, he will be charged twenty per cent. on it; and, I think, with that penalty before him, he will not be likely to exceed the time. The next step, after appoining a trustee, will be, as it is now, to prove debts. The creditors must prove their debts in the same way as they do at present; but, instead of proving them in court, they will send them with a statutory declaration to the trustee, who will accept them, and be satisfied as to their correctness. The debts that are sent must be such as are capable of being stated, and no demands in the nature of unliquidated damages arising otherwise than by reason of a contract or promise, shall be provable in insolvency; but if a debt is anything like the estimated amount of liability, it may be proved. Nor will any creditor be allowed to prove a debt if contracted after the notice of insolvency. The creditors who prove their debts will be entitled to a rateable share of the assets; the only debts which are entitled to preference being local rates, and wages for clerks, servants, and laborers. But, after the proof of debts, there is another matter to which I will draw the attention of the House, because it is an alteration, and, I consider, an improvement. It is in respect of creditors holding securities. At present it is no unusual thing for secured creditors who have only a very small interest in the estate to appear as creditors for the full amount of their debt, and vote accordingly, swamping, very frequently, the smaller creditors, and compelling them, perhaps, to accept a composition, which they would not otherwise have agreed to. Now, that is wrong in principle, and this Bill gives to creditors holding security exactly their proper influence over the estate of the insolvent. If they attend meetings, they are only entitled to vote for the amount of their debt, over and above the value of their security; and this principle applies, not only to the debts sent up to the trustee, but it obtains also in cases of composition, or arrangement made by the trustees, without putting the estate into the Insolvent Court; so that, as I said before, the real creditors have every power over the estate. There is another alteration in the law, which again, I believe, will have a salutary effect. It is not the court that will make the allowance to the debtor when a man goes into the court. Now the first application is for an allowance, and if the insolvent gets the support of two or three creditors, who know he is going to make the application, and there are not a sufficient number of other creditors to oppose him, an allowance is made to him of so many pounds per week, while the bulk of his creditors have not a voice in the matter. But, under this Bill, the creditors will have to say what allowance the debtor shall have; and if they choose to pay the money belonging to the estate in that way, they have only themselves to blame. When the trustee has collected the assets, and has realised upon them, it will be his duty to distribute them as often as the Committee of Inspection may direct; and, in the event of his not declaring a dividend for the space of six months, it will be his duty to call a meeting of creditors to

explain it. It will, also, be his duty to act for creditors living at a distance, who have not had an opportunity of proving their debts; and, also, to provide for debts which are the subject of claims not yet determined. So that, in every way, the creditors have the whole management of the estate in their own hands, and every one of them, as the House will find, are protected by this Bill. When all the available assets have been realised and distributed, then comes the closing of the insolvent estate, and a notice to the public is inserted in the *Gazette*, that the insolvency is closed. It cannot be closed without an order from the court, which is published in the *Gazette*. The result is, that after the insolvency is closed, it will be open to the insolvent at any time to apply to the court for a discharge. Well, sir, the Act passed in England states that that discharge shall not be granted, except where a dividend of ten shillings in the pound has been paid, unless the creditors request, by a special resolution, that it be given, although that dividend has not been paid. I wish to call the attention of the House to this, because it is a new principle; and although I have left it in this Bill, as it stands in the English law, I shall leave it to honorable members to say, whether the dividend should be fixed at so high a rate. The object of fixing the dividend at all was, to induce the debtor to stop his business while some property was left for the creditors. But it has been, I believe, already a question, within the twelve months during which the Act has been in operation, whether the success of this provision has been as great as was anticipated; and if this Bill goes into committee, I shall certainly not insist upon retaining that large dividend if the House is of opinion that it would be better to alter it. The order for discharge will free the insolvent from the effect of all debts which have been proved against his estate; but it will not free him from any fraudulent debts he may have contracted—not from any debts resulting from breaches of trust. It will not free him from debts due to the Crown, or any debts with which he stands charged at the suit of the Crown, except the Colonial Treasurer certifies in writing his consent to his discharge. In all other respects he will be a free man from all the debts; but, if he fail to obtain a discharge, he will be in a different position; and here is another new principle—for three years he will have absolute freedom from his creditors. His debts, of course, will remain, as he has not received his discharge; but if, during those three years, he is able to pay the amount of the fixed dividend, making up the dividend he has already paid to that sum, he may claim his discharge as a matter of right, the same as he could have done at first. But if he is unable to obtain his discharge in that time, any after acquired property may, under certain conditions, become liable for the debt. At the close of the administration, or the winding up of any estate, the accounts of the trustee must be sent forward to a central officer, called "The Accountant in Insolvency," to audit, examine, and report upon; and, if the accounts have been properly kept, they will, of course, be approved and passed. That closes the proceedings in the matter—the winding up of the estate, not in the court, but in insolvency. However, sir, if the creditors are disposed not to force their debtor into court, there are two modes by which he can, nevertheless, be freed from his debts. The 129th section of this Bill provides regulations for liquidation by arrangement, without making the debtor insolvent. The creditors still have control over the whole estate. They elect their trustees instead of having them appointed by the court, and the proceedings are carried on precisely as they would be in insolvency, except that the discharge is given to the insolvent by a vote of his creditors, and not by an order of the court, the effect of the discharge so obtained being exactly the same. Under that arrangement, if the creditors have a friendly feeling towards their debtor, they may spare him the shame of appearing in the insolvent court. The following clause relates to a composition with the creditors, by which they are enabled to carry out the arrangement in the nature of an insolvency, but to accept a composition in lieu of the other process; so that, instead of forcing their debtor into court, they have the power of arranging the matter at once. Thus, they have the power of doing what they think best in winding up the estate, and by appointing a trustee are enabled to carry out the business much better than it is done under the present system. Honorable members who are acquainted with the Scotch system will recognize this as a great improvement upon the existing law in this colony. That is a brief outline of the main features of this measure. I should have been glad if it had been in my power to give a clearer and more comprehensive sketch of it, but I believe I have made a fair statement of its principal provisions. The next question is the machinery employed to carry out these provisions; and here I come to a part of the Bill which does not carry out the English system so closely as that portion which I have endeavored to explain. It has been for many years a matter of complaint in this colony that local management of insolvent estates is necessary, and when I came into office I found that this matter had already been dealt with by the honorable and learned member for North Brisbane, and that he had a Bill prepared to amend the law relating to insolvency. That Bill is almost the same as this, except in its machinery, and I have adopted machinery which must to a certain extent be experimental, to give jurisdiction in insolvency to the local districts. My honorable and learned friend had adopted district insolvent courts conterminous with our three district courts—a metropolitan court to sit at

Brisbane, a western court at Dalby, and a northern court at Rockhampton. Now that, it appears to me, would not meet the merits of the case. It would be very awkward for the people of Townsville, for instance, to go to Rockhampton, and the people of Maryborough would not go there when they could get to Brisbane more easily. That would be no absolute improvement upon the old system; and what I propose is, that the administration of insolvency in these places be placed entirely in the hands of the District Courts, and that the judges of those courts shall hold sittings in insolvency in each town they go to, and that those sittings shall be held immediately after the other sittings, but it shall be in their power to sit at any other time. So far, it is simple enough, and so far I think it will answer very well. But it is necessary that there should be in each case where the court is sitting a subordinate officer to bear the name of Registrar of the District Court, to whom, as a matter of necessity, a great many matters must be confided; and it is here that the machinery of the Bill may be said to be experimental. I believe, however, that we shall be able to find gentlemen in these courts sufficiently able to carry through all the unimportant cases; and I believe the stimulus of self-interest will induce local creditors to give their full attention to the matter, and the registrar would not be able to go very far astray. There is a provision enabling creditors in any particular estate to transfer the proceedings from one court to another, or to any place where that court is sitting. The result will be, I believe, that all the principal cases will find their way to Brisbane or to one of the larger courts, and if that be the case, I believe there will grow up a class of professional trustees who would make it their business to master this Act, and to whom creditors would entrust their affairs. There would thus be no danger that these cases would be mismanaged, while the small local estates would be administered on the spot, and with very little expense. Of course, any machinery of this kind must be only an experiment, and may not work well; but, if it does not, we can alter the machinery without affecting the principle of the Bill. And we must then devise some other means of carrying out the principle of placing the administration of the estate in the hands of the creditors, and giving them control over the collection and distribution of the assets. I wish the House to look at the Bill as divided into two parts—one relating to the collection and administration of the property, and the other to the judicial powers it confers, as it may be possible to make improvements in one portion without interfering with the other. The House must, however, understand that this Act will form a very small portion of the laws relating to insolvency in this colony, for they will perceive that, in very many clauses in it, the word "prescribed" occurs—which means prescribed by rules of court; and the rules of the English court, which must necessarily form the groundwork for us, number no less than three hundred and twenty. The House will understand that this Bill, good as it is, and this mode of insolvency, short as it is, do not comprise the whole power we shall vest in the District Courts for the administration of this Act. We place in their hands the formation of rules to carry it out, except in cases of appeal, which are left to the Judges of the Supreme Court. These are matters to which it is necessary that I should call your attention. There are also one or two other matters which I will mention in reference to the disqualifying effect of adjudication in insolvency. In the first place, the effect under our present Constitution Act is to disqualify a person so situated from a seat in Parliament, and it is proposed to carry that principle so far as to exclude any insolvent from that privilege until he has obtained his discharge. It was never intended that a person whose estate is under administration should sit in this House until he has received his discharge. Then, sir, there is another provision which has been adopted in England, and I think might be adopted here with advantage—that if any person, being a justice of the peace, shall be adjudged insolvent, or shall make any arrangement or composition with his creditors, he shall cease to be a justice of the peace, and shall be in no way competent to perform the duties of that office until he has been newly assigned by the Crown in that behalf. I have not yet mentioned the distinction which is still maintained, in the English Act, between traders and non-traders. In the Bill which I found ready to my hand, that distinction was still maintained, but I believe the circumstances of this colony are such that that distinction should not be made. There can be no valid reason why traders should be subject to more stringent clauses than other insolvents, for graziers do not come within the definition, and they comprise one of the largest classes of colonists. The distinction which is retained in the English Act is excluded in this Bill, and all classes will be dealt with alike. We have so far increased the jurisdiction in criminal cases, that where a debtor fraudulently removes his property, defaces his books, or is guilty of similar misdemeanors, he can now be punished without any proof of intent, unless the jury are satisfied that he had no intent to defeat the law; which I think is a salutary arrangement. I must, in conclusion, draw the attention of the House to the two last clauses. Seeing that the office of official assignee is abolished by this Bill, it is proposed to grant those officers such compensation as they would be entitled to if they were civil servants, and we propose, if the House is so disposed, to draw this compensation from a special fund unconnected with this Bill. I have ascertained that there is now in the hands of the official assignees, a sum amounting to nearly £3,000, consisting of unclaimed

dividends and interest. Out of that sum we propose to pay these gentlemen; and I would propose to this House to transfer the remainder of that sum to the consolidated revenue, reserving power to the Colonial Treasurer to pay to any person entitled to it as a creditor, such share as may be due to him. With these remarks, sir, I beg to move—

That this Bill be now read a second time.

The Hon. R. PRING said, of course he fully agreed with the main features of the Bill, because he had drafted it himself and had left it in the office when he went out. He was therefore entitled to say a few words on the subject. With regard to the omission mentioned by the Attorney-General, of the clause distinguishing the trader from the non-trader, he differed entirely from the honorable member. The Bill had been prepared by him for the then Premier of the Government, Mr. Lilley, at the request of the Chamber of Commerce of Brisbane, who had been holding meetings for two or three years, and had prepared a Bill themselves to submit to him, with a number of suggestions. The policy of introducing a Bill of the kind, at all, had never been settled by the then Government; and his own private opinion was, that if there were no Insolvency Act at all, they would be much better off. He believed that, except in cases of actual misfortune, a debtor ought not to be let off until he had paid twenty shillings in the £; and the knowledge that a man had to pay the full amount of his debts, or be liable for them all his life, would, be thought, be the greatest safeguard against insolvency. But, if they were to have a Bill on the subject, he thought that perhaps the principles of this Bill were as good as could be submitted to the House. Now, the English Act, which had been carefully prepared, was a mixture of the Scotch and English law. Up to the passing of that Act by the Imperial Parliament, there was a distinction drawn between bankrupts and insolvents, and there was a distinction in the law affecting each particular class. It was considered that this distinction should be done away with, and it was omitted in that Act, with but one exception: there was one clause in which a certain class were recognised as traders. He had let that clause stand, and he should, in committee, suggest to the House the propriety of adopting it;—the 132nd section of the Act, which dealt with the punishment of fraudulent debtors, was clearly intended to apply to traders, and the distinction was absolutely necessary:—

"(14.) If within four months next before the presentation of an insolvency petition against him or the commencement of the liquidation he obtains under the false pretence of carrying on business and dealing in the ordinary way of trade any property on credit and has not paid for the same unless the jury is satisfied that he had no intent to defraud.

"(15.) If within four months next before the presentation of an insolvency petition against him or the commencement of the liquidation he pawns pledges or disposes of otherwise than in the ordinary way of trade any property which he has obtained on credit and has not paid for unless the jury is satisfied that he had no intent to defraud."

That clause applied to retail traders who managed to obtain goods on credit in the ordinary way of trade from wholesale dealers, and then pledged them to other parties. He maintained, therefore, that the distinction which had been drawn between traders and non-traders ought to be retained. The distinction was only recognised in five clauses—clauses thirteen and fourteen and three others which he could not remember at the moment, because he had not his own Bill by him. Without that distinction there was no difference between the retail grocer or ironmonger, who obtained goods on credit, and by that means defrauded his creditors, and the professional man. He now came to the jurisdiction of the court. That had been very carefully considered, and it was a very difficult question to solve. He would give the reasons which had induced him to make an alteration in this respect from the Imperial Act. He had done so because he was perfectly satisfied that the District Courts, as at present constituted, could not do the work allotted to them; they had not the machinery to do it, and that machinery could not be supplied except at great expense; and even if it were provided out of the consolidated revenue, he maintained that it would not work. Now, this Bill was an exact transcript of the English Act; the Bill he had prepared had been adapted, as he believed, to suit the requirements of the colony; for his long experience had convinced him that some alteration was necessary. In England, the machinery employed was of the most complete kind that could be imagined. The courts in which insolvency business was transacted at home were very different from the District Courts in this colony. In the first place, the officers connected with them were men of the highest standing and ability. The judges drew high salaries, and were highly qualified; the courts too were held much oftener than the district courts were held here. What would be the good of these sittings when Judge Blakeney could only open the court at Roma, for instance, twice in the year? (An HONORABLE MEMBER: Four times.) He contended that it would be impossible to have four sittings, unless the other places where the court had its sittings were neglected, and he was quite sure it could not be done when the insolvency jurisdiction was added. The system that he proposed was this—there were three District Court districts in the colony, the Western, the Southern, and the Northern, and each of those districts was presided over by a judge, who held sittings of the District Court at such places as were appointed. He proposed that the District Court judges should also be judges in insolvency, and hold insolvency sittings

at Dalby, Brisbane, and Rockhampton. He then proposed that under each judge there should be a registrar, a person duly qualified to do the work of the district, and that the clerk of petty sessions, or the registrar within the District Court district, should also be registrar of insolvency jurisdiction. Then came the best part of the Bill, which provided that the creditors should do all the rest themselves, and that was omitted. That, however, was a matter of opinion. He would give the reasons for having altered the Act, to meet the requirements of the outlying districts. The requisite machinery was wanting to carry out this Bill. In Brisbane, he admitted, there would not be much difficulty in carrying it out, but it would be found very difficult to work in the country districts. Now, instead of the District Court judges spending half their time on board steamers travelling from one place to another, he proposed that they should live in their own districts, and in which case they would have time to give proper attention to their duties. If they lived at head quarters, each in his own district, the system would work much better. They would be at hand ready to receive the returns of the registrar and the reports of the creditors, and this would facilitate the obtaining of judgments, which he was sorry to say was very seldom done. Those were his reasons for making an alteration in Imperial legislation, which he always respected, because he thought it was necessary to the requirements of the colony. The main principle of the Bill before the House had been referred to, and very properly, by the Attorney-General—that was the way in which the distribution of assets was carried on. It was perfectly true that under the present system the court had the distribution of assets, instead of allowing the creditors to distribute them, and that he must confess was a great evil. The creditors complained that the property of the debtor, which belonged to them, was not properly dealt with, and that after the expenses of the assignees, the court, and the lawyers were paid, and the dividend was declared, there was nothing worth having in the pound left to them. He believed, therefore, that the alteration proposed in this Bill, which gave the creditors full power over the estate, should recommend itself to the consideration of the House. There was also one great feature in this Bill —he did not remember whether the Attorney-General had touched upon it or not—and that was, that while the present law allowed a man to whitewash himself, this Bill did not allow him to do anything of the kind. It provided that he could only be made insolvent when his creditors, or a majority of them, decided that he should be so. That, he believed, would be a great preventive to fraud. Then he also thought that the machinery for petitioning was very complete; and then, again, there was another part of it which referred to debtors' summonses, which, as far as he could judge, provided a new system for this branch of the insolvent law, and he thought it should recommend itself to the approval of the House. The other features of the Bill had been so fully gone into by the Attorney-General, that he could not touch upon them without reiterating what that honorable gentleman had stated. There was, however, one point to which he would call the attention of the House, and that was the minimum dividend of ten shillings in the pound, which must be declared before an insolvent could obtain his discharge. He might remind the House that this principle had been passed into law in Victoria, and was generally approved by the other colonies; he believed it was now under consideration in New South Wales; but it had been a great question in all the Australian colonies whether 10s. in the pound was not too high a dividend, and he thought he recollected a discussion which appeared in the papers in Victoria, or elsewhere, as to the propriety of reducing it to seven shillings and sixpence. He only mentioned this that it might be a subject for consideration by honorable members when the Bill went into committee. Now, with reference to the rules of court, he thought the judges ought to be capable of making a few short and simple rules for their own guidance, without adopting the whole of the lengthy and complicated English rules *in globo*. At all events they might do so for the present, and when the business of the country became enlarged, they could frame any additional rules that might be necessary. If they did so, they would shut the door, to a great extent, to a number of technical objections which might otherwise be raised. There was one question on which he would offer a few remarks, even at the risk of drawing upon himself some small amount of odium from certain persons who held office under the present Act, and that was the question of compensation to the official assignees proposed by this Bill. In the first place, the official assignees had been receiving five per cent. commission upon all insolvent estates, and, in his opinion, they had never done their work properly. They simply furnished a report; they never took the trouble to collect the debts, but sold them for whatever they could get, and they got their five per cent. for that. Then again, there were very good appointments for them under this Bill; they could in future be trustees, for which office they would be qualified, and he must say he could not see that there was any occasion to provide compensation for them. He thought this question deserved the serious consideration of the House, and he put it to honorable members whether, at a time when the Government and the House were retrenching in every direction, when Ministers had set their faces against anything in the shape of further pensions, or payments for alleged services, and had even knocked off a portion of their own salaries, it would be right to

make this provision in favor of the official assignees, who had, he repeated, been very well paid for the work they had done. He did not mean to say he objected to the clause being in the Bill; it was, he thought, a very proper subject for the consideration of the House, and he did not promise to oppose it. But whether the House would consent to pass it was another matter. He had considered it his duty to bring the subject under their notice.

The question was put and passed, and the Bill was read a second time.