Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

FRIDAY, 16 AUGUST 1872

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LEGISLATIVE ASSEMBLY.

Friday, 16 *August*, 1872.

Municipal Institutions Bill.—Civil Courts Procedure Reform Bill.—Northern Railway Plans and Sections.—Southern Railway Extension—Plans and Sections.—Payment of Members Bill.—Railway Amendment Bill.

MUNICIPAL INSTITUTIONS BILL.

Mr. LILLEY moved—

That this Bill be now read a second time.

It was a very simple Bill, and merely proposed that the appointment of assessors for the municipalities should take place in December instead of in August, as at present; when some inconvenience was experienced by having the appointment made in the middle of the year. It was merely a technical alteration for the convenience of municipal councils, as it would enable them to know the position of their affairs and the amount of rates they might calculate upon for the ensuing year.

The ATTORNEY-GENERAL said there was another point in the matter not referred to by the honorable member, namely, that the assessors must be ratepayers. He would like to hear the opinions of others on that, who were more conversant with municipal affairs than he was.

Mr. THORN thought it would be advisable that the Bill should be withdrawn, until a proper Municipalities Bill could be introduced next session. If the assessors were to be chosen from the ratepayers, the town clerks in many places could return whom they chose, as they could cook the rolls as they chose; and that being the case the rolls should be revised by proper persons and not by the town clerks.

Mr. CRIBB objected to the Bill, which proposed that the assessors should be appointed by the Council from the ratepayers. He thought they should be appointed by the ratepayers themselves, as they would then be more careful in the assessment of property. If that alteration was made, he would support the Bill, although he thought it was not such an important measure as to warrant its being brought forward at that late period of the session; especially as there were several other matters in connection with municipalities which required amendment.

Mr. HEMMANT quite concurred with what had fallen from the honorable member for West Moreton, Mr. Thorn, as to the necessity for reform in the Municipalities Act. He thought it was quite patent to everyone, without mentioning any particular municipality, that municipalities did not enjoy that popularity they used to enjoy under the old Act; and he believed that that was mainly due to the secret nominations. All interest in municipal elections in Brisbane had been destroyed at any rate, as he noticed that about only two persons ever attended the nominations there. He remembered, not long ago, that some excellent persons were brought forward as candidates; but, in consequence of some technical informalities in the nomination papers, the whole of them were put out, and, in fact, the Town Clerk virtually returned six persons. He thought it would be better if the honorable member for Fortitude Valley would introduce an amended Municipalities Bill, and if he did so, he would receive the thanks of the community. So many opinions had been expressed in that House of Hare's system of representation, that he thought it would be well to give that system a trial in regard to municipalities before they applied it to parliamentary elections.

Mr. EDMONDSTONE thought the idea of applying Hare's system to municipalities was altogether absurd, as it was too complicated a system; if simplicity was introduced into it, then the very essence was taken from it. With regard to secret nominations at municipal elections, he thought they had really been of benefit to the city. It did not follow that because a certain gentleman accepted the appointment of alderman, and shortly afterwards resigned it because he was disgusted with his company, that the whole system was bad. There was no doubt that the present Bill had been brought in somewhat late, but still he should support it.

Mr. FYFE thought that nominations should be made as public as possible, but that the polling should be as secret as it could be made. As regarded Mr. Hare's system, it was not suited to municipal elections.

Mr. HANDY pointed out that the only question before the House was, whether municipal assessors should be appointed in December instead of in August. He thought

that the objection of the honorable the Attorney-General was a good one, as if the assessors were not appointed by the ratepayers, they might assess property too heavily. He was prepared to support the Bill with that alteration.

Mr. FERRETT thought the honorable member who had just spoken knew very little about municipal matters if he thought that it was the assessors who put the value on property. He quite agreed that it was better that those officers should be elected by the ratepayers, as then the best men would be appointed. He did not, however, think that assessors should necessarily be ratepayers, as he knew for a fact that men might be only lodgers in a town, who were in every way well qualified to perform the duties of assessors. He thought it was not wise to go on with a measure like the present, which was, after all, only patchwork, but that a comprehensive measure should be introduced next session.

Mr. STEPHENS said he should have to support the Bill, as it went back to the original Act; and from the experience they had had of the two Acts, he believed that the first was far more satisfactory; and that there were not so many appeals under it. There was nothing ratepayers disliked so much as having the value of their property continually altered. There would be a great advantage in having the assessors appointed in December, as it was always half-a-year before any rates were got in. He did not think that the assessors would be more popular if they were appointed by the ratepayers than by the Council, for whether they were elected by the ratepayers or not, they were paid by the Council.

Mr. JOHNSTON thought that the measure was a very necessary one, and as to the assessors being appointed by the Council, he was not aware that there had ever been any complaint against such a practice. The object of the Bill was simply to empower the appointment of assessors in December, instead of in August, so that the Council might have a statement of ways and means before them in February, when they met. At present, the first half-year's rates could not be collected until those for the second half-year were due. He believed that it was a very necessary measure, although at the same time, he agreed that the whole Municipalities Act required alteration.

Mr. GRIFFITH agreed with many honorable members in disliking what might be called patchwork legislation. It did not appear to him to be of any very great importance whether assessors were appointed by the Council or by the ratepayers. He thought that whilst they were amending the Municipal Act they might go further than was proposed by the Bill, and give the Governor power to cancel municipalities—as for instance, that of Drayton, which was a disgrace to the colony.

Mr. J. SCOTT was opposed to the Bill, as already there were several amended Municipal Acts on the Statute Book. In February, 1868, there was one passed to amend that of 1864. On the 9th July, 1869, there was another Act passed, and now it was proposed to pass another Amendment Bill; so that there were to be four Municipal Acts in existence. He thought it would be far better to repeal the Act altogether, and bring in another.

Mr. GROOM thought that the honorable member at the head of the Government had contemplated introducing a Bill for the amendment of the municipal law; as it was not long ago since the honorable gentleman had called for suggestions from municipalities on the subject. Having been a member of a municipal council for some years, he could understand the object of the proposed Bill, as it was utterly impossible at the present time to have the assessment made until the second half-year's rates were due. He hardly knew whether the honorable member for Fortitude Valley would allow a clause to be inserted in the Bill to deal with such a difficulty as had occurred at Drayton.

Mr. LILLEY: No.

Mr. GROOM: He knew it was the wish of many persons at that place that something should be done to put a stop to the present state of things. He should support the Bill, as he knew it would be of great assistance to municipalities.

Mr. LILLEY stated, in explanation of the Bill, that the only object of the corporation of Brisbane, on whose behalf he had introduced it, was to enable them to see how they stood, financially, at the commencement of each year. He had not proposed any general amendment of the Municipal Act, but he had no doubt that there would soon be some measure introduced for the general reform of municipal law in the colony. In the meantime, however, the Bill, if passed, would be of very great convenience. As to its being too late to bring in such a measure, why it was of so simple a nature that it could be passed through in a few hours.

Question put and passed.

CIVIL COURTS PROCEDURE REFORM BILL.

Mr. LILLEY moved—

That this Bill be now read a second time.

Mr. MACDEVITT said that the object and scope of the Bill now before them were of considerable importance to the colony generally; and whilst he agreed with the remarks which had been made on the previous night in regard to another measure being passed through the House at that late period of the session, which proposed extensive reforms in their legal system, and to which it would be difficult therefore to give proper consideration; yet, on examination of the measure now before them, it would be seen that it would not require that amount of discussion which the ultimate realisation of the object it desired to effect would necessitate. The Bill

was merely a formal beginning of the reform in the law which it contemplated as its object. The measure, as had been explained by the honorable and learned member for Fortitude Valley, had for its object the conferment of a power to appoint a commission which might bring about the desired reform in the practice of the law, namely:—Uniformity of process, procedure, and practice; the disposal in one action, suit, or proceeding, of matters and questions of law and equity involved in the controversy between the parties thereto; uniformity of judgment or relief, or of judgment and relief combined; a system of written pleadings wherever required; a code of evidence; a scale of remuneration for professional services, and costs and fees in the courts; and the preparation of such codes, rules, or reports as may assist to render as simple, effectual, and inexpensive as possible the administration of the law. It would therefore be seen that the question to be decided was, whether it was advisable to appoint such a commission or not? In fact, it appeared to him that the honorable member might have brought about the same result by resolutions to be approved by that House and the other branch of Legislature, so that the fact of there being a Bill need not alarm honorable members that any immediate alteration in the statute laws of the colony was contemplated by the measure; they merely wished to make a commencement by which such reform might hereafter be effected. The honorable member had alluded to the manner in which the administration of the law was carried; and he was borne out in what he stated, not only by his own experience but also by the writings of the most eminent jurists in France and other countries. There were two great codes of law, the Code Justinian and the Code Napoleon; but there was another code of a very different kind, by which the labors of the commission should be modelled, and that was the New York Code. Now, although there was no doubt that the reform of the law was of very great importance, still honorable members must not run away with the idea that a codification must be a simplification and improvement of the law simply because it was a codification; at all events, the last codification of the American law in 1848, did not impress one favorably with the idea of codification, as it had been found to be very defective, and had been continually amended. There was no doubt that the present mode of procedure for the recovery of money for goods sold and delivered did not lead to justice in the majority of cases. Compared with the cumbrous and expensive mode of proceeding in the colony, was the change which had been made by the New York Code. It provided that there should be a plaint note and a statement made to that by defendant, and upon those statements the court proceeded to trial. The process was so remarkably simple, when compared with the complicated common law of the colony, that one could not help being struck by it. There was one respect in which he differed from the honorable member who introduced the Bill—that was, that he thought it would not be possible for any commission to frame such a code of practice as would be applicable to disputes in all courts of the colony. He thought it would be impossible to do that. The procedure introduced by the code of New York had brought about decisions as complicated as the system which it swept away.

Mr. LILLEY: No, no.

Mr. MACDEVITT: Well, they had Whittaker of New York, who was the leading legal authority in America. In one of his works he reviewed seven thousand cases which were the subject of decision under the procedure of New York, and he quoted fourteen statutes which had been passed for amending the procedure since that system was established. Then, again, when the exigencies of the case had brought about a necessity for the publication of a work so large in its size, and so numerous and varied in its decisions and reviews as "Daniel's Chancery Practice," it must be evident that it was altogether a mistake to suppose that when they codified the law they simplified the procedure. In New York the code of procedure was codified in 1848, and it was found necessary to amend it in 1849, and a further amendment of the code was proposed in 1850, but it had not yet been adopted by the State.

Mr. LILLEY: I have a copy of it in my pocket.

Mr. MACDEVITT: He also had a copy of it, which was recently sent to him by a friend in New York, and it was not larger than a prayer book, which one might conveniently carry in the pocket of his vest; and if a work of that small compass was sufficient to contain all that was necessary for the administration of justice, it would be a very desirable thing to have a similar compilation here. But, as he had just said, this code of 1850 had not yet been adopted by the State of New York, and the code of 1849 was still in force; and yet that code had brought about litigation as fruitful, and decisions as numerous as it proposed to do away with. He only threw out the reference for the purpose of urging caution in dealing with an undertaking of this kind. Then again, the code Napoleon took twenty years in its preparation, and the most eminent men in France, both in law and philosophy, were employed upon it. The present code of New York took three years in its preparation, but considering that they had been working at codification since 1846, they might set it down that it had taken the commissioners of New York fifteen or sixteen years to construct their amended code, for it was not published till 1860. And this amended code had not yet been adopted

by the State. Now, having in view the result which he had stated, that codification had not brought about that simplicity in procedure which was expected from it, they should bear in mind that in bringing about this commission they were initiating what would be a very great work, and one that would inevitably occupy a great length of time. It was a work that would require much of the greatest ability and experience that was to be found in both branches of the profession; and the commissioners, whoever they might be, must be allowed time to do their work studiously and carefully; and of necessity they must be paid handsomely; and when he looked around him he did not think they had amongst the profession or in the lay portion of the community a sufficient number of men, properly instructed to accomplish this great work. When they found that the most distinguished men in America had occupied so much time in codifying their laws, and that in a few consecutive sections they had adopted provisions directly opposed to each other, they must see that the utmost care was necessary to be exercised in preparing a code of procedure. In one section it was enacted that issues of law should take precedence of issues of fact; and within three clauses further on, it was enacted that issues of fact should take precedence of issues of law; and when they found that in a work which proposed the permanent legislative form to be adopted in the administration of justice, they must make up their minds for undertaking what would be a long and laborious work, and for the necessity of proceeding carefully and studiously. The honorable member for Fortitude Valley, in the course of his speech, touched upon a matter in which he had no sympathy with him. The honorable member said that this work should not be entrusted solely to persons connected with the profession of the law, because of their sympathy for technicalities and forms, and their aversion to innovations; and that, therefore, some lay gentlemen distinguished for erudition, should form part of the commission. Now, as regarded the common law of England, there had been less done for the administration of justice than had been done in any other country. It was a melancholy fact that less had been done in England, than on the Continent or in America, for the amendment of the law; and, on that part of the subject, he would quote a passage or two from the "History of England," by an American author, John George Phillimore, a work which it was to be regretted he did not live to complete. That author complained strongly of so little having been done in England for the improvement of the administration of the law. He said:—

"But any one who wishes to know only the worst and most ignoble features of the English character, the narrowness, the purblind adherence to forms of which the meaning is absolutely forgotten, the indifference to the welfare of others, the slovenly neglect of what is important, and the minute attention to what is meaningless, and, above all, the sordid respect for wealth, and abject deference to authority which are sometimes to be found among its baser elements, will find them unmixed, unredeemed, and stripped of all disguise—not trembling at themselves, but rampant and odious—in the biography of lawyers down to the time of which I am speaking, and in the history, so far as it has depended upon them, of the English law. In vain do we seek for one single scientific treatise connected with any subject of general jurisprudence; for one single work indicating enlarged views, among the works of English lawyers; for any writings to be compared, I do not say, to the immortal works of Cujacius, Donellus, or Du Moulin—but for any above the level of the most mechanical and sordid pettifogger that ever drew from chicane the means of prolonging his mischevous existence. The treatise of Bracton, written in the reign of Henry the Third, the work of a canonist and a civilian, is superior to any that from that time to the accession of George the Third is to be found in the arid waste of English law. In vain do we look for a single attempt on the part of the judges to remedy evils, which every day must have forced upon their notice. In vain do we listen for a single word to denote any sympathy with the public weal, any sense of the frightful sufferings which make the soul sick in their perusal, and to which so much of the crime that they were every day called upon to punish must of course be attributed. On the contrary, we find them vehemently and acrimoniously resisting every attempt to correct even the most shocking of these abuses, as far as in them lay, and joining the practitioners in the lower part of the profession, to make the person who denounced them a mark for obloquy and persecution; and yet no lawyer of our day can deny that at the accession of George the Third the English law presented a most revolting spectacle."

Then there were two notes, one of which was as follows:—

"In 1771 an address was presented by the Bar to the benchers of the Middle Temple, for the expulsion of Mr. Stephen, because he had written against imprisonment for debt. ('Ann. Reg.,' 1771.) At this time there were 4,000 prisoners for debt every year in England."

The other note stated that in 1773, or about a hundred years ago, a woman named Elizabeth Herring was burned alive. The text went on to say:—

"No jurist can deny that its chicane was endless, its rules absurd, its punishments cruel and unavailing. If it were not so, how comes it to pass that in the last ten years it has undergone such material, though far from sufficient, alterations? And, if this be admitted, what is to be said of the moral character of those who, for generation after generation, saw these evils, not only without any attempt to alleviate them, but with a fixed resolution to support all that could increase their virulence—careless, so long as their own fortunes were secured, what became of their contemporaries or posterity."

Now he thought that that sweeping condemnation of the law had been abundantly made up for by the reforms in the law which had been made by the late and present gene-

rations; and all the great reforms that had been effected, had been brought about by the highest members of the legal profession—Brougham, Campbell, Lyndhurst, and Romilly, whose names would live in connection with the history of law reform for all time to come. It afforded him great pleasure to be able to say that he would gladly assist the honorable member for Fortitude Valley in effecting the measure of reform which he proposed by the Bill. The object of the honorable member, as he took it, was not to enact a sweeping reform. What the honorable member now proposed to do, was, he believed, merely to arm the Government with the power and authority to do that which had been done in France and in America, and which it was attempted to do in England. Here they would have for their guidance the Code Napoleon, the New York Code, and the elaborate reports of the English Commission. Everyone who was conversant with the administration of the law in this colony, could not fail to be impressed with the great necessity there existed for some reform. Since this became a separate colony, several cases had been brought before the court in its equity jurisdiction, but in no case had a decision been arrived at, as they had been allowed to lapse, either through the death of one or other of the parties to the suit, or pecuniary inability to carry them on. The main object, as proposed for the commission to deal with, was simple enough. It was simply what was proposed, and in some degree carried out in America, and what had been attempted in England, namely, the union of law and equity. The American system would furnish one example at least, which they might adopt here with advantage, and that was that there should be but one appeal allowed as to a matter of fact, and two as to a matter of law. If they were to adopt that practice, they would avoid the frequent applications that were made for new trials; and if they accomplished that they would effect a great deal of good. There were also some matters of detail, and one of them especially, which might also be adopted with advantage, not only in the practice of the law, but in the practice of Parliament. In America, the practice of the Legislature was, that no member was allowed to speak for a longer time than forty-five minutes, and the rules of court prevented a member of the legal profession from speaking for more than one hour; and if some efficacious means could be adopted for compelling the judges to deliver their decisions within a reasonable time after the case was tried, it would be a still further advantage. He thought the honorable member for Fortitude Valley deserved the sympathy of everyone who desired to see the present insufficient and cumbrous machinery of the law abolished. In every respect, there was an evident necessity for something being done with a view to simplifying the present administration of the law, which was only suited for former generations, and for a different state of civilization than the present.

The COLONIAL SECRETARY said he believed that honorable members were pretty well agreed that the purposes for which this commission was asked were correct; and no one would deny that a necessity existed for some reform in the administration of the law. The main purpose of the Bill was a very simple one — to appoint a commission to inquire into and report upon the system under which the law was at present administrated in the colony, with a view, as far as possible, of reforming it. He did not, therefore, see that it was at all necessary to discuss the question at length at this late period of the session; especially as they would have an opportunity of doing so when the commission brought up their report, and that would be the proper time to discuss the question; and the Government would be glad to have the report fully considered when it was brought up. He gave the honorable member for Fortitude Valley great credit for introducing this short Bill, even at so late a period of the session. He thought it might be passed by this House in a short time, and sent to the Legislative Council, and passed there also this session.

Mr. THORN said that what they wanted in the courts was an efficacious and an inexpensive system of administration; and in order to get that, they ought to open the profession of the law to everyone. If they had that they would make law a great deal cheaper than it was at the present time; and it was only by opening the courts of law to agents, as well as to barristers and attorneys, that that could be brought about. Litigants, he thought, should be allowed themselves to be the best judges as to whom they would employ to look after and conduct their business for them, either in the court or out of it. In many cases an agent would do the work as well as a barrister or an attorney; and until there was free trade in law, there would be no reduction whatever in its expensiveness. He did not see why lawyers should have any prescriptive rights to the profession of the law, more than other members of the community had to their respective callings. As to the commission, he would like to know what benefit they were likely to receive from it; and he asked that question because they had a commission appointed about two years ago, and no good had resulted from it. If the commission consisted entirely of lawyers, it would, he thought, be altogether too narrow-minded for a work of the kind contemplated by this Bill.

The SECRETARY FOR PUBLIC LANDS said he thought there was a very obvious reform in the law which might be made almost immediately, and that was, the assimilation of the procedure of the Supreme Court to that of the District Courts. What had been found to be beneficial where a sum of £200 was

involved, could not fail to be satisfactory in the dealing with a case where a sum of £2,000 was involved. Let them sweep away all the rubbish of forms and technicalities which had been handed down to them from antiquity; and which, while they might be very nice things to play with, were, in the practice and administration of the law, only expensive and cumbrous obstructions. Those who were fond of forms and ceremonies, let them become Freemasons, Oddfellows, or Good Templars, but not lawyers. Now, he believed that it would not cost £1,000 to carry out the object of this Bill; but though it were to cost several times that amount, it would be worth it to the colony if the work was well and efficiently done.

Mr. THORN: Free trade in law.

The SECRETARY FOR PUBLIC LANDS: As to meeting the honorable member for West Moreton in court, he could not bear to think of it for one moment. It would be something too horrible.

The ATTORNEY-GENERAL said, that as to the object which the honorable member for Fortitude Valley had in view, he fully sympathised with him; but he must say that he was astonished the honorable member had not brought forward the Bill until almost the last day of the session. If the subject had weighed so long upon the mind of the honorable member, as he had led the House to believe it had done, he might, he thought, have found an opportunity of bringing it forward at an earlier time. There could be no doubt that the procedure of the administration of the law was tedious and cumbrous; but the system was so involved, from the various parts working so intricately into each other, that he had never felt himself able to deal with it. If the labors of the proposed commission should have anything like the result the honorable member said he anticipated when he introduced this Bill, he, for one, would be very greatly surprised and gratified. But he did not think the work could be performed in so simple a way as the honorable member supposed it would be: and he did not believe they had men in the colony who were capable of performing it. They had none in the colony who could command sufficient leisure to be able to devote the amount of time it would be required to give to a work of this kind; and they might, as a first step, have to adopt the New York, or some other code. If the honorable member had taken up only one branch of the law it might have been possible to accomplish the work so far, and then they would have been able to see how much further it might be carried out. As it was, he did not think that the labor proposed for the commission, even if it should be performed, would result as the honorable member seemed to expect it would; and he would here point out that the last commission that was appointed relative to a reform of the law, did not result in so favorable a way as was anticipated. He referred to the commission for the consolidation of the laws of the colony. That work was placed in the hands of the Chief Justice and the Attorney-General at the time, and they had seen the result. Now, it was proposed to place this work of the codification of the law in the hands of a mixed commission, consisting of lawyers and laymen; but the laymen, no matter how erudite they might be, would have to spend several years in the study of the law before they would be qualified for the task, or they would have to depend for guidance upon the legal members. It would be impossible for the lay members to deal with the present intricate and cumbrous state of the law, and to say that any changes they might propose would tend to the simplification of the system or not. It would, therefore, as he had said, be necessary for them to rest for guidance upon the legal members of the commission. Now, he very much doubted if any professional man in the colony had sufficient knowledge of his profession, practically and theoretically, to be able to revise the statutes, and the whole system of their laws. Everyone connected with the profession of the law, had a certain amount of practical knowledge in his own branch, and a certain depth of theoretical knowledge, and a wide smattering as to the practical and theoretical belonging to the other branches of the profession. Everyone required to have a slight smattering of every other branch outside of his own, because of the nature of the questions that occasionally arose. There were cases that arose, for which both the bar and the bench had to prepare themselves; but only for the time being, and perhaps cases of a like nature would not arise again for several years, by which time they would have so far forgotten the law as bearing specially upon them, that it was necessary again to go through the same course of preparation as they did previously. He mentioned that, for the purpose of pointing out that the labor of the commission would be greater than the honorable member seemed to anticipate, unless it was proposed to adopt wholesale the system of New York, or some other code. He must say he was somewhat surprised to find that so little notice had been taken of the Indian code, of which he presented a copy to the library a few years ago.

Mr. LILLEY: He referred specially to it in the course of his speech in introducing the Bill.

The ATTORNEY-GENERAL: Well, the commission might adopt the Indian or the New York code, if they should find that they had undertaken a work they were not able to perform. He would not oppose the Bill, but would be happy to give his most zealous attention and every assistance in his power to the performance of the work. But there was another question to be considered, even if they should succeed in codifying the law; and that was, that if by this codification they

swept away the present system of procedure, they would lose much of the benefit they now derived from the decisions of the English judges, for comparatively few of those decisions would be applicable to cases adjudicated under those codes. From that circumstance, it would be evident they were proposing to deal with what was not only an intricate but also a very dangerous subject. However, he would not occupy the House longer at present, because, before the results of the labor of the commission could become law, it would be necessary for this House and the other branch of the Legislature carefully to consider them.

Mr. GRIFFITH said he quite agreed as to the necessity there was for some reform in the administration of the courts in this colony, and particularly in the Equity Court. It was not the first time during the short period he had been a member of the House, that he had taken the opportunity of pointing out some of the glaring defects of that court. The remedy which the honorable the Secretary for Lands proposed, would, he thought, be entirely inapplicable. It was very easy to say that the practice of the District Courts might be applied to the Supreme Court, and no doubt the practice of the District Court was very admirable for the purpose for which it was intended; but in the Supreme Court so many intricate questions arose that the proceedings became extremely complicated, and therefore the procedure of the District Courts would not at all apply. Now it was impossible to pray for relief in a few words; and that was where the New York Code was found to be defective. During the time that code had been in existence there had been seven thousand appeals; and that arose from this, that they attempted to lay down the principles of the law in a few words; and it was the usual result of all attempts at generalities, and to condense into a few words a great many things. Now, take the common law of England, it was so small that it was not in writing at all, and it had been the most fruitful source of litigation. Any codification of the law, as proposed, would take a very long time; and he did not think there were in the colony men of sufficient ability to perform the work. He must say that he thought the preamble of the Bill was rather severe. It stated that the pleading, procedure, and practice in the several civil courts of the colony was unnecessarily and vexatiously intricate, cumbrous, dilatory, costly, and oppressive, and so on. Now, he thought that the pleading applied only to the Supreme Court; and some of the observations of the honorable member for Fortitude Valley, where he was also somewhat severe, applied to the Equity Court. The honorable member stated that the first few preliminary steps in the Equity Court exhausted, in some instances, more than the whole estate. Now, the expense of the barrister was comparatively small. They did not come to one-tenth of the other expenses connected with the suit. It was for what took place out of court that by far the greater portion of the expense was incurred. He thought that the remark made by the honorable the Attorney-General, to the effect that members of the bar had to coach themselves up for cases, was more generally applicable than was supposed; and equity cases were so unfamiliar to the court as well as to the members of the bar, that they required lengthy arguments to be advanced upon cases which, in England, would be disposed of in a few minutes. But here long arguments were required, and that was partly the cause of equity suits being so expensive. Another cause of the expensiveness of equity suits was the changes connected with procedure. Some of the steps required to be taken in an equity suit cost £5; and the same thing, in a case brought before a court of law, would cost only about two shillings. Now those were the things that made suits in equity so enormously expensive; and those were the things that should obtain the attention of the House; but it would be impossible to dispose of those matters for the better for years—that was, the whole of them;—though some of them might be very easily amended at once. In England a commission for the amendment of the law was appointed in 1867, and in 1869 they brought up their first report; but from that time to this they had not brought up their second report. That commission consisted of the most capable men that were to be found in England for the work, and yet it took them two years to bring up their first or preliminary report. [The honorable member then proceeded to quote, at great length, from "Weekly Notes of Cases heard in the House of Lords, &c.," for 1869, pages 179 to 182.] He thought it would be very undesirable to leave the carrying out of any new rules to the judges, as they preferred to adhere to the rules to which they had been accustomed, rather than to make new ones; in fact, he believed they never would have new rules unless they were made for them by Parliament. He believed that if the Scotch law was adapted to this colony, equity suits, instead of lasting for years as they now sometimes did, would be conducted as quickly and as cheaply as ordinary common-law suits. He was very much afraid that the commission would not be of much good, simply from the want of leisure time on the part of those men whom it would be desirable to have on the commission. There was no man here who could devote the necessary time without remuneration, and he did not think it would be well to expend much money on it. He thought rather, that it would be better to wait until a further report was brought up by the English Commissioners, as that would be of great assistance to them. He should not oppose the second reading of the Bill, but he thought the preamble might be amended, as he thought that the common-law procedure was as simple as it could be; as also the District Courts,

which had been recommended by the honorable member for Ipswich, Mr. Thompson, as being a model for all courts in the colony. It was a question which, no doubt, would be dealt with before long.

Mr. LILLEY said he was very glad indeed to find that, in the main, the Bill had received so much support; and he thought that the country might be congratulated on the very moderate speeches which had been delivered by the legal members of that House. He demurred, however, to a remark which had been made by the last honorable speaker, that the practice of the Common Law Courts was as simple as it could be. Honorable members appeared to have drifted into the belief that he proposed to reform the whole law, but all he aimed at was to simplify the procedure of cases brought into court. Nothing could be more simple than for lawyers to sit down and consider what reforms could be made in that respect. It had been stated that the revision of the code in New York had been a mistake; but it was nothing of the sort, as could be seen by the language of Mr. Dudley Field, which he noticed was cited in the "Law Review." That gentleman stated, in an address to the Social Science Association in 1866:—

"The Code of Civil Procedure went into effect on the 4th of July, 1848, and has ever since remained the law of the state. Though the opposition to it was great at first, and the treatment it received from many of the judges and lawyers such as I do not care to describe, it had, nevertheless, some friends on the bench and at the bar, and has now so firmly established itself, that I do not believe there is a man in the state, who would return to the old system."

Now that was the opinion and experience of a very eminent jurist and lawyer—a gentleman of high European standing, and, in fact, a man whose words should have great weight. There was another point on which he thought that they might be congratulated upon having made their first effort in the direction of law reform—which was, that the New York procedure appeared to have been adopted on the report of the commission, the principal feature in which was the abolition of common-law pleading:—

"Every suit is commenced with a summons. Then follows the complaint. There are no interrogatories; but the defendant may either put in a demurrer to the complaint or an answer. The answer may contain a counter-claim, equivalent to a cross bill. If so, the plaintiff may reply. Full liberty of amendment is allowed at any stage of the proceedings. At the trial, evidence is given *vivâ voce*; in interlocutory proceedings, by affidavit. Interested parties may give evidence. Issues of fact are decided sometimes by a jury, sometimes by the Court. All causes are heard, in the first instance, by a single judge, with an appeal to the Court in Banco; and a further appeal upon points of law to the Court of Appeals."

The commissioners, no doubt, borrowed from the common law such provisions as they thought advisable; and he thought that the commissioners who might be appointed here—presuming the Bill was carried—might enter upon their work with good heart. At all events, they might see whether they were not capable of doing that great work. An admitted evil existed, and yet the men who could see that evil, were so supremely inconsistent, that they said no man could remedy it. He thought, however, that if they saw an evil, it was a sufficient proof that they could remedy it. He did not think they were so deficient of good men in the colony that they could not remedy evils when they saw them. Now, he proposed, when the Bill was in committee, to make an important addition to it, which was to provide for the appointment of a public trustee. At the present time, if a man wanted a trustee to administer his estate, either under will or in any other way, he must find some private friend; and he believed that from that system, there was an immense loss of property constantly occurring to those persons for whose benefit such property was held. He believed that a public trustee, under the control of the Government and judges, with an adequate remuneration, would be the means of saving the loss of thousands of pounds in a country like this, which was so rapidly becoming wealthy; as then there would be an officer charged with the administration of those affairs who, it would not be possible, could be guilty of breach of trust. He proposed to insert that as one of the objects to be attained by the Bill. He did not think that, with the examples they had before them, any attempts would be made to evade the new code. They had now, in some of their law books, thousands of decisions, and he would like to know the difference between the cost of those decisions and decisions made under the New York Code. The principles of common law had been gathered from various sources—sometimes they had been assumed from fiction, and at others from a mere principle of natural justice. He thought, however, they would be doing good public service by passing the Bill, and, as regarded the cost of it—why, he did not suppose it would be very great. He had heard some honorable gentlemen say that the previous consolidation of the statutes was not satisfactory; but, strange to say, no one had ever said in what respect it was unsatisfactory. The object of consolidating the statutes had been to gather into a narrow compass the existing practice of the law, and then upon that to base the reform which he anticipated would be effected by the present Bill. If, however, the codification cost many hundreds of pounds, it would be the means of saving to the people of the colony many thousands.

Mr. FERRETT wished to say, in reference to the present consolidated statutes, that it had come to his knowledge that the consolidation had been so carelessly carried out, that it was something for the House to speak of.

Mr. HANDY did not wish to occupy the time of the House for many minutes, but merely to mention that the object of the Bill was not that of immediate law reform, but only to decide the propriety of appointing a commission to provide the material for effecting such reform. He quite agreed with the Bill, but thought that some limit should be placed to the operations of the commission, or it might be found that their labors were never terminated.

Question put and passed.

NORTHERN RAILWAY EXTENSION— PLANS AND SECTIONS.

The SECRETARY FOR PUBLIC WORKS moved—

That the Plans, Sections, and Book of Reference of the line from Westwood towards the Dawson River, Great Northern Railway, for fifteen miles (to 45-Mile Peg from Rockhampton), submitted for the inspection of honorable members, and now on the table of this House, be now approved, and forwarded to the honorable the Legislative Council for concurrence.

He said that, at the outset, he wished to remove from the minds of honorable members any impression that might exist, that he was desirous of paying more attention to the furtherance of the northern than of the southern line, because he moved this resolution before the similar one relating to the southern line. But such was not the case, and he might state that the resolutions did not appear on the paper in the order in which he gave notice of them. He gave notice of the motion as to the southern line first, and then of this motion. He knew that honorable members had had but a short time to examine the plans and sections, and to satisfy themselves respecting them; but they could hardly blame the Government for that, because there had been but a limited time for their preparation since the resolutions in favor of railway extension were passed by the House. He did not expect that he would have had to press this matter forward so soon after the plans were laid on the table; but as the session was drawing to a close, and as they would have to be laid before the Legislative Council for approval, it was necessary he should do so, though in bringing them forward that afternoon it was contrary to a promise he gave to one honorable member that he would not do so. He had thought, however, that it was better to bring them forward now, in order that they might not jeopardise the construction of the lines being immediately proceeded with. He might inform the House that there would have to be considerable deviations from these plans and sections, and therefore the Government would not feel themselves to be altogether bound by them, because there had not been time for the survey as to the northern railway line to be minutely carried out. These plans and sections, therefore, were now laid on the table, merely as a guide for honorable members in dealing with this question. If the surveyors should be able to find a better route, and one along which a line of railway could be cheaply and easily constructed, the Government would feel it to be their duty to adopt it; and, as honorable members would admit, they might, by spending £1,000 on surveys, succeed in saving £100,000 in the construction of the line.

Mr. SCOTT said he would like to get some definite expression from the Government as to the way in which they intended to carry out the northern line, and whether it was to be constructed on the 2 feet 9 inch gauge, as recommended by the Railway Commission, or on the 3 feet 6 inch guage. A railway could be constructed on the narrow gauge at considerably less cost than on the broad guage, and it would meet the requirements of the district equally well. The cost of the 254 miles in Victoria, which were constructed on the broad gauge, came to no less than £11,600,000, or, at the rate of £46,000 a mile. He understood that the saving of six inches in the gauge would reduce the expense of construction by about £300 a mile. The amount of loss to Victoria, from adopting the broad gauge, was about £560,000, and the absolute loss about £3,000,000 up to the present time, which amounted to about £12,000 a mile, or as much as the average cost of two and a-half miles of railway here; or, as much as it would have cost to construct four miles of railway on the narrow gauge, for every mile now in existence. So that, if the narrow gauge had been adopted in Victoria, they would have had 1,000 miles of railway for the same amount as it had cost them to construct 254 miles.

The COLONIAL SECRETARY said he had no doubt the gentlemen on the railway commission came to a conclusion that perfectly satisfied themselves; but it would be remembered that when the House agreed to the appointment of the commission, he carefully guarded the Government from being bound by the report of the commission; and he did not see that the commission were justified in proposing that the gauge should be altered; nor had they brought forward any good reason in support of their recommendation. Now, he did not think that the difference in the cost between the 2 feet 9 inch gauge and the 3 feet 6 inch gauge would compensate for the insufficiency of a line constructed on the narrow gauge. He had read the evidence taken before the commission, and had carefully studied it, and he must say that he very much doubted whether the saving in the cost of cutting and constructing a line on the narrow gauge would be so much less as the commission seemed to think it would be, than for a line on the broad gauge; especially when they remembered that the northern line as far as Westwood had been constructed on the broad gauge, and to alter the gauge now would involve the tearing up of the whole of the line, and the sending down of all the

rolling stock to the South; and, besides, great inconvenience would be caused to the people who had been in the habit of using the line, by the stoppage of traffic during the time of its reconstruction. There was also another reason why they should not alter the gauge, and it was this, that if they considered the rapid progress of the colony, both in the South and in the North, from the attraction and settlement of population, consequent on the development of mineral wealth, they might reasonably look forward to the southern and northern line yet being connected; and it was therefore advisable that they should have but one gauge for both lines. He doubted very much whether, from the small comparative saving that would be effected in the construction of the line on the narrow gauge, it would not be a loss to the colony in the end, rather than a benefit. He could not see that any sufficient argument had been put forward by the commission, to justify an alteration of the gauge, and he thought it would be a matter of much regret if the gauge should be altered, as it would delay, if not prevent the connection of the lines at some future period, when it might be found advisable to do so; and the mineral discoveries that were almost every day taking place in the North, led him to believe that it would be found, in the course of a few years, that the carrying capabilities of a line on the broad gauge would be found to be required. He thought the Railway Commission made the proposition for the alteration of the gauge, merely because they wanted to shew that they were doing something. He knew that the people of the North—and he had had a considerable amount of correspondence with the leading business men in Rockhampton on the subject—were altogether opposed to the 2 feet 9 inch gauge; and for all those reasons the Government preferred that the line should be carried out on the 3 feet 6 inch gauge.

Mr. Lilley said he believed the House had adopted the report of the commission, and, therefore, if the commission was in error in recommending the narrow gauge, the House was also in error in that respect. He thought the evidence clearly shewed that a line could be carried out on the 2 feet 9 inch gauge for a very much less amount than a line on the 3 feet 6 inch gauge; and the saving of the difference would assist in the extension of the line. If, however, the House chose to reverse the decision they had come to by adopting the report of the commission, he would not offer any objection to their doing so.

The Colonial Secretary said the honorable member for Fortitude Valley was mistaken in supposing that the House had adopted the report of the commission. He had only laid the report of the commission on the table of the House. It was the resolutions of the honorable member for the Leichhardt that were adopted by the House, and not the report. He merely laid the report upon the table, and took no further action upon it; and he did not think that any other honorable member would take the matter out of his hands.

Mr. Wienholt said he thought the strictures of the honorable the Colonial Secretary upon the commission were not at all justified. The commission had taken a great amount of evidence, and had a great deal of other information before them on the subject, all of which they gravely considered; and they came to the conclusion that a line constructed on the narrow gauge would be quite sufficient for the traffic in the North, at any rate, for many years to come. The traffic was not so extensive that it would pay for the construction of a line on the broad gauge; and, therefore, it would be to the advantage of the country to construct the line on the narrow gauge. At the present time an addition was required to the rolling stock on the southern line; and, therefore, it would be a saving to the country to bring down the rolling stock of the northern line to be used on the southern line. Then, as to the northern and the southern lines being connected, he did not think there was any chance of that being the case—they went in different directions. At any rate, it was not likely, under any circumstances, that any such connection would take place for the next twenty years. A line constructed on the narrow gauge would be quite sufficient for the traffic in the North, and it was the duty, therefore, of the House to insist upon the cheapest gauge being adopted. The expense of taking up the thirty-three miles of rails on the northern line, for the purpose of narrowing the gauge, would not be much, and the inconvenience to the public would be of very brief duration, as the rails could be shifted in a very short space of time.

Mr. Stephens said that if they agreed to the motion now before the House, they would authorise the Government at once to go on with the line, and that without their having any information on the subject. Now, he maintained that before they did that they ought to have some information before them as to the probable cost of the line; and if it would be kept within the amount voted for the work, which was about £4,000 per mile. He remembered that on a previous occasion they passed a vote for the construction of a line in the same way as they had done in this instance, and the consequence was that they had afterwards to pass three further votes for the completion of the line. He therefore hoped the Government would give the House some information as to what the line was likely to cost.

The Colonial Secretary said that the Government would endeavor to make as good and as cheap a line as they possibly could. Mr. Ballard, who was entrusted with the carrying out of the northern line, had been for many years concerned in the engineering department of railway construction, and he

had that gentleman's assurance that he would be very glad, as a contractor, to take a contract for the construction of 120 miles at the amount which had been voted, of about £4,000 per mile, and that he could make a good profit out of it at that price. Now, the way it was proposed to pay the contractors would secure that the line would be cheaply constructed, for they were to be paid, not according to the amount of money they might be able to spend, but according to the amount they might be able to save.

An HONORABLE MEMBER: The work might be scamped on that principle.

The COLONIAL SECRETARY: It would not be scamped. At any rate, the Government would take very good care that it should not be; and they would endeavor to secure that it should be well constructed and as economically as possible.

Mr. STEPHENS: Were they to understand that the line would be constructed at a cost not exceeding the amount which had been voted?

The COLONIAL SECRETARY: Yes; if it were at all possible to do so.

Mr. FERRETT said he could not consent to approve of the plans with so little information as they had before them on the subject, and he would not have consented to the construction of the northern line so far as he had done, if he had not understood that it was to be constructed on a cheaper principle than it seemed the Government were willing to adopt. He thought that as this was a matter of very great importance, they ought not to go on with it in so thin a House, and during an extraordinary sitting. He had been misled in believing that the recommendations of the commission would be carried out, otherwise he would not have supported the extension of the northern line to the extent he had done. If the line was carried out on the 3 feet 6 inch gauge, they might find that instead of costing £4,000 per mile, it would cost them £15,000; and that was what he would never consent to. They had always been told that for the future a cheaper system of railway construction would be adopted than had been acted upon in the past, and it was under that assurance that he supported the extension of those lines. He thought they should now act upon that principle, and when more expensive lines were found to be necessary, let those who required them pay for them. He would never be a party to the construction of such expensive lines of railway. He considered that Mr. Wienholt had good cause to complain of the remarks which were made by the honorable the Colonial Secretary respecting the commission. As to the probable cost of the line, they had nothing before them to warrant them in going on with it. All former experience shewed that railways cost a great deal more than they were estimated at; and they had nothing to shew them that this line would go over country more favorable to the cheap construction of railways than any of the other lines. If the line could not be constructed within the contract price, he would not vote for it.

Mr. MILES said he did not believe it would be possible for the Government to go into a large work like this, and keep exactly within bounds; for engineers, and contractors, and others, in the carrying out of a railway, seemed to have a particular liking for deviations and other alterations, all of which tended to increase the cost of construction. The country was placed almost at the mercy of professional men in a matter of this kind; but he hoped the Government would exercise a careful supervision over the works, and that they would let the lines in small contracts.

The motion was then agreed to.

SOUTHERN RAILWAY EXTENSION—PLANS AND SECTIONS.

Mr. WALSH moved—

That the Plans, Sections, and Book of Reference of the line from Ipswich towards Brisbane, about fifteen miles, submitted for the inspection of honorable members, and now on the Table of this House, be now approved and forwarded to the honorable the Legislative Council for concurrence.

He said he would at present reserve any remarks he had to make on the subject till he came to give the information which honorable members might, in the course of addressing the House, express a desire to obtain.

Mr. MACDEVITT said he thought every honorable member must regard it as an evidence of the cheering state of the colony when they found the honorable member for Maryborough even coming forward as an advocate for railway construction. He now rose for the purpose of saying, simply and shortly, that he had abstained from opposing the expenditure of this money in the construction of the proposed new works; because he believed the Financial Separation Bill of the honorable member at the head of the Government would have passed into law, by which the districts that would not be benefited by the railways would not be taxed for their construction. He knew that any opposition to the proposition now before the House, would, however, be futile. Now, the present Government was elected to carry out a special policy, and to resist all reckless expenditure; but, within a short time afterwards, they changed their policy. However, he hoped the honorable the Colonial Secretary would take the opportunity that would be afforded him by the recess, to prepare a new Financial Separation Bill, and that he would be able to carry it through the House, so that when financial separation might take place, there would be no difficulty in dealing with the question. There was, he believed, a disposition in the House to do justice to the financial claims of the North, and he hoped, when the matter was next before them, they would not rest with a

mere recognition of the principle, but would require that steps should be taken to give it practical effect.

Mr. THORN said that the southern line was estimated to cost £8,000 per mile, while the northern line was only to cost £4,000 per mile. Now, he would like to know if it was the cost of repurchasing the alienated lands through which the line would pass that caused this difference. For his own part, he believed that both of the lines would cost a great deal more than the honorable the Minister for Works imagined they would. Why, the rise in the price of iron, which had recently taken place, would, of itself, cause a considerable increase of the cost. He hoped that in the carrying out of the line, the honorable member would take care that the navigation of the Bremer, at Ipswich, and of the Brisbane, at Oxley Creek, where he believed it was intended to re-cross the river, would not be interfered with. By agreeing to the motion now before the House, they would only be approving of two small sections of it; and, he would like to know if the Government would carry on the construction of the line to Brisbane, before the plans for its construction were laid before the House for approval, as these had been. He was afraid that, if the Government once got hold of the money, they would make the remaining portion of the line, of which the plans and sections were not yet completed, without the sanction of the House—that was what he wanted to learn from the honorable the Minister for Works. He disliked, he must say, the idea of the line crossing the Bremer, as he was afraid that the station at Ipswich would be of no use if the line took that turn; and unless some alteration was made, there would be a great deal of detention at Ipswich—the same as at present took place at Toowoomba. For his own part, he would rather see the line go a different way from that proposed by the plans and specifications laid on the table. Another thing was, that the line would go very close to the river at Goodna; and, if the Government intended to adhere to the plan, the line would very shortly be in the river, as the bank there was being gradually eaten away. He believed that at that particular place, a great saving might be effected by taking the line a little to the back of Goodna; if that was done, about a mile and a-half of railway construction would be saved to the country. On the whole, he should support the plans of the honorable Minister for Works; but he thought, at the same time, that some material deviations could be made, by which a considerable saving to the country would be effected, as, then, the Government would not have to purchase nearly so much land as they now proposed to do.

Mr. JOHNSTON said he was certainly opposed to give his consent to the plans and specifications now before the House, as it was bad in principle to assent to the construction of any public work when only sections of a portion of that work were before them, and when it was thus impossible to say what the total cost would be. It was a notorious fact that surveys were being made for a deviation from the old surveyed line, the actual cost of which line had been ascertained, and the consent of the House to which, had been given, on the understanding that the railway would be constructed on those plans. They were now asked to give their assent to the construction of a line, the plans for the second section of which were not finished, and when the Government were not in a position to say what the cost of the deviation would be over and above the cost of the original survey. Now, taking that matter into consideration, he would ask honorable members to say how they could give their consent to such a state of things?—to consent to give the Government power to commence a railway, of the sections of only a portion of which they knew anything. He maintained that the bridges which were proposed would cost three-fourths of the whole construction of the line as surveyed. There would be also a second bridge to be considered, and then also there was the navigation of the river to be taken into consideration. As a member of a constituency at the head of the navigation, he felt it to be his duty to protest against the adoption of any section of a line of railway which might have the effect of injuring the navigation of the river. Why, at the present time, they were constructing a bridge in the very heart of the city, which would cost £100,000 before it was completed; on that bridge the corporation had been compelled to put a drawbridge to give room to vessels to pass up and down the river, and he would ask whether it was likely that the Government could construct a bridge to cross the river at less than one-half the cost of that, or was it possible that that House would give its sanction to any obstruction to the navigation of the river? Until he found what the whole section would be, and that no obstacle would be opposed to the navigation of the river, he should oppose the resolution. Now, on the ground of economy, he would mention another thing. It was proposed that the line should cross the river at Ipswich, about 350 yards from the present bridge, and he would ask, what was the object of that? Was there any necessity for it whatever? Why should the line be made more expensive than it need be? Had anything been shewn to prove that the old surveys were not cheaper and better than the new surveys? Had anything been shewn to prove that the deviation would make the line more valuable to the country? Had anything been shewn that by increasing the cost of the line by 100 per cent., the traffic on it would be increased to the same extent? There was nothing of the sort shewn; there was not one feature in favor of the section laid before the House; there was nothing to shew that population would be

settled along the new line to the same extent that it was settled in the localities which would have been crossed by the old surveyed line; and if there was not any population, then the Government were not true to the population already settled. He would take the bridge across the river at Oxley to get to the north side, and he would also take the bridge over the Bremer basin. He believed that there were gentlemen in the Public Works' office capable of giving an estimate of the cost of those works; and he believed that if they were consulted, the cost of them would be found to be more than the cost of the whole line according to the plans first submitted to that House. Then, upon that ground—upon the ground of economy, he contended that the original line should be adopted—if there was no other ground than the mere saving to the country of the extra expense—that line should be adopted. Even if there was no occasion to give the benefit of railway communication to a number of hard-working men who were struggling against bad and almost impassable roads, the difference in cost—which would go far towards making twenty-five miles of railway from Dalby to Roma—should surely be taken into consideration. To take another view of the matter: at Ipswich there was an immense station-house—in fact, the only real station in the whole colony—a most magnificent and spacious station; and, if the proposed line was adopted, there it would stand—a memento of the folly of gentlemen who first assented to the construction of railways—alone, isolated, and cut off entirely from use or capable of being made available in any way, except to remain where it was, and see the traffic passing over the river away from it. It was a fact that must be patent to anyone who had considered the matter that, if the railway passed, as it was proposed it should do, the requirements of the large station now there, would be similar to that at Walloon or other stations—namely, merely as a booking office. Now, if there was nothing else, the mere throwing that splendid station out of use should be a matter for consideration with honorable members. He should feel it to be his duty, on behalf of his constituents, to vote against the deviation. He was perfectly convinced that the time had arrived for the construction of a railway to Brisbane; but it did not follow that, because the country was prosperous, they should squander money in the construction of that line; and deviate from a cheap and feasible route that would benefit the country more than the expensive and out-of-the-way route along which it was now proposed to carry the line.

On the question being put,

The SECRETARY FOR PUBLIC WORKS said that as it appeared to be the wish of several honorable members that he should answer some of the questions put by the two honorable members who had last spoken, he would do so to the best of his ability. In the first place, the honorable member for West Moreton, Mr. Thorn, asked whether the navigation of the river would not be impeded by the erection of a bridge at the Bremer basin. To that he would answer that it would not, as the height of the proposed bridge would be exactly the same as that now across the Bremer. Then the honorable member said that he thought that the line would go too near the river bank at Goodna. Well, he might tell the honorable member that he agreed with him in that respect; and also that that was the opinion of the engineer in charge of the surveys, who, in a report on the subject, stated that on making a careful examination of Mr. Fitzgibbon's line as far as Oxley, he found it to be the most correct; but that its great fault was passing too near to the bank of the river in the vicinity of Goodna and Six-mile Creek; and that at that point there would be a deviation necessary, which could easily be carried out. He would further inform the honorable member that the surveyor would mark out a deviation that would go over land which would not cost much to resume, as much of it was unalienated. Then the honorable member for Ipswich said, he should like to know the actual cost of the whole line, but the Government were not as yet in possession of sufficient information to enable him to state the cost accurately, as they had not had time to get full advice on the subject, and were not in possession of enough data to give a decided answer. The engineers, however, held out hopes that the line would not be an expensive one, and could be constructed within the estimated cost. The honorable member had also referred to the cost of the bridge; and in that respect had been most egregiously mistaken. The Government so far intended to build one bridge—that proposed by Mr. Fitzgibbon, and instead of that costing half of £100,000, as stated by the honorable member, the engineer's estimate for the work was only £15,000. He believed the honorable member was as far out in all his other calculations as he was in that particular one; at any rate, £15,000 was the estimated cost of the bridge at the Bremer basin. If it was ultimately decided that there should be another bridge across the river elsewhere, it would, no doubt, be more expensive; but the Government had not taken that matter into consideration, and would not, until there had been cross sections made. The honorable member was rather inconsistent when he said that he should oppose that portion of the line being made at all, until he knew what the cost of the whole line would be; because the honorable member had already agreed, without any effort at opposition, to the plans for an extension of 15 miles to the Great Northern line, although it had been stated that there would probably be deviations on that line. When, however, they came to the Southern and Western line,

and when they were not deviating really from that which had been before the country for three years, the honorable member stated that he must object. He was at a loss to know why the honorable gentleman should make any difference between the two cases. Now, so far, the report of the engineer had been very favorable to Mr. Fitzgibbon's line, with certain deviations. It was proposed by that engineer, that there should not be such a steep gradient as one in sixty, as intended by Mr. Fitzgibbon, but that, instead, there should be none greater than one in eighty, which would be a very great advantage, as it would enable the Government to bring down more produce in a train than it would be possible to do if there was a steeper gradient. It would have the advantge of being less costly, as a saving could be effected of £6,000. Then, again, he proposed another improvement on Mr. Fitzgibbon's line, namely, that there should be no sharper curve than fifteen chains, whereas on Mr. Fitzgibbon's line, there were several curves of ten chains—so far, that would be a great improvement. Then it was stated by the honorable member for Ipswich, that by having a bridge to cross the river, the expense would be far greater than it would be if the line was taken through the town of Ipswich, and came down on the opposite side. Now, the honorable member must be aware that there had been two reports sent in—one by Mr. Thorneloe Smith, and the other by Mr. Fitzgibbon, and notwithstanding the antagonism of those two gentlemen as regarded their views as to the side on which the line should start from, there was only a difference in the estimated cost of £2,000 or £3,000 between the two. One word more;—the reason why the Government had not brought down plans and specifications for more than fifteen miles, was, that they were not yet satisfied with the way in which it was proposed the line should come. They intended to adopt the route which was most satisfactory to the people and advantageous to the country—they had no personal interest whatever in the matter. If the engineer reported that the line, by crossing the river two, or even three times, would be more for the benefit of the public, the Government would recommend that it should cross the river two or three times. On that subject, however, the Government were as much in the dark as any honorable member; and it was madness for gentlemen who knew so little of the route to go to that House and protest against the way in which the line should be made. He trusted the explanation he had given would be considered satisfactory by honorable members, and that the resolution would be agreed to.

Mr. FERRETT said it was fully his intention to oppose the motion; and, as he represented a large portion of the district through which the line would pass, it was only right that he should make a few remarks on the subject. There were few honorable members who knew the whole route of the proposed line better than he did, and he could bear out a great deal of what had been said by the honorable member for West Moreton, and also by the honorable member for Ipswich. He believed that if the line was made, as proposed, it would be so close to the river at Goodna that there would be every danger of its falling in some day or other, owing to the bank giving way. Then, again, when they got nearer to Ipswich, it must be patent to everyone that it would be less costly to the country if the line was to be taken through a small portion of that town than to erect another bridge across the river at the Bremer Basin. Of course it might suit engineers to have a second bridge across the river, and it might suit other persons to put up another station on the north side; but he maintained that to bring the line from the present terminus through a small portion of the town of Ipswich, would be less expensive than putting a bridge across the basin, the only object of which could be, to impede the navigation of the river and involve considerable expense upon the colony. He considered, also, that the second bridge across the Brisbane, whether the line would be shorter by it or not, would be a second expense, and was, in his opinion, only another scheme to impede the navigation of the river to Ipswich; and he protested as one owning lands on the river against anything of the sort being done, and he protested also, as any person had a right to do, against an impediment to the navigation of any navigable river. He should protest most certainly; especially as there was no occasion for having that second bridge. Honorable members knew very well what those bridges cost. It was all very well to say that the bridge at the Basin would cost only £15,000; but it should be remembered that the bridge now there, with some little repairs, cost £30,000, whilst the bridge now being erected across the river, at Brisbane, would cost three times that. He wished the House to understand those things—which were well worthy their consideration—before they consented to adopt the plans. Then again, they were asked that the line should be commenced before the plans of the second section were laid before the House; and that he thought they should not agree to, for if all the sections of the existing line had been submitted to the House before the line had been commenced, the country would never have been put to the expense it had been. He would not consent to any portion of the line being made until the plans of the whole line were before the House. If it was done, there would be a repetition of the old mistake made on the Main Range: that, when the line was commenced at the top and at the bottom there was obliged to be a deviation to make the two meet—that was the cause of the numerous curves. He would also point out to honorable members that the matter of the agree-

ments with the contractors had not been looked into carefully—at least it did not appear as if they had—any more than they had been before; and if any loopholes were open in that respect, the Government would be left just as liable to actions for breaches of contract as they had been. Even now he believed there was an action pending against them in the Supreme Court. He hoped, therefore, that that matter would be looked into, so as to guard against anything of the kind. He was not opposed to railways when he thought that they were necessary; but he thought it should be considered whether, in the construction of the present line, it should not be taken to the Bay, and a deviation made to Brisbane.

The question was put, and the House divided with the following result :—

Ayes, 16.	Noes, 5.
Mr. Palmer	Mr. Ferrett
„ Bell	„ Buchanan
„ Thompson	„ Johnston
„ Walsh	„ W. Scott
„ Thorn	„ MacDevitt.
„ Lilley	
„ Clark	
„ J. Scott	
„ Edmondstone	
„ Griffith	
„ Stephens	
„ Miles	
„ Royds	
„ Fyfe	
„ Handy	
„ Hemmant.	

PAYMENT OF MEMBERS BILL.

The COLONIAL SECRETARY moved—

That this Bill be read a second time.

The motion was agreed to without discussion, and the Bill passed through committee without amendment.

RAILWAY AMENDMENT BILL.

The SECRETARY FOR PUBLIC WORKS moved—

That this Bill be now read a second time.

The Bill, he could assure honorable members, was one of a very important character, and he therefore trusted it would obtain the attention of the House generally. As, however, several honorable gentlemen were desirous of leaving the House early that evening, he would ask them to consent to have the Bill read a second time, with the understanding that when he moved that it be referred to the committee, he would explain the provisions of it.

Mr. THORN said that he must object to the Bill being introduced at all in the manner in which it had been; it should have originated in a committee of the House, because it proposed an appropriation out of the consolidated revenue, and as such was a money Bill. The fifth clause made provision for the appointment of an arbitrator, who was to receive a certain remuneration—which would have to be hereafter fixed—out of the consolidated revenue. There were other clauses also to which he could take exception; but he would at present content himself with asking for the ruling of the honorable the Speaker on the point he had raised.

The SECRETARY FOR PUBLIC WORKS said there was no doubt that when the Government brought forward a Bill, providing that an officer should be paid a certain stated salary out of the consolidated revenue, that such a Bill must originate in a committee of the whole House, but the Bill before them merely affirmed that there should be such an officer as arbitrator. He had no doubt that the objection was raised purely from factious opposition on the part of the honorable member, who had reasons for opposing a measure of the kind. He would point out that there was nothing to prevent the Bill being put in the form in which the honorable member wished it to be put. He trusted, therefore, that the honorable member would agree to the very moderate request he had made, and not oppose the second reading. He could assure the honorable member that he was quite as jealous of any infringement of the rules of the House, as he was himself; but the Bill did not provide for any stated salary, it merely saying that a certain officer should be appointed, and that provision should be made for paying him out of the consolidated revenue.

The SPEAKER said that under ordinary circumstances, the 271st Standing Order would be fatal to the Bill; but he thought after the resolution, for suspension of certain Standing Orders, come to at a previous period of the evening, the House could proceed with the second reading of the Bill.

Mr. HEMMANT rose to a point of order. The resolution referred to by the honorable the Speaker only applied to the passage of Bills through all their stages in one day. That, however, and the manner in which Bills should be introduced, were two very different things. He would move—

That the Speaker's ruling be disagreed to.

Question put.

The House divided as follows :—

Ayes, 8.	Noes, 7.
Mr. Walsh	Mr. Palmer
„ Handy	„ Bell
„ Lilley	„ Bramston
„ Hemmant	„ Fyfe
Dr. O'Doherty	„ Thompson
Mr. Edmondstone	„ Clark
„ Griffith	„ Scott.
„ Thorn.	

It appearing from the division that there was not a quorum present,

The SPEAKER adjourned the House.