Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 4 OCTOBER 1876

LEGISLATIVE COUNCIL.

Wednesday, 4 October, 1876.

Assent to Bill.—Railway Arrangements.—The Standing Orders as to Private Bills.—Oaths Bill.—Navigation Bill.

ASSENT TO BILL.

A message was received from His Excellency the Governor informing the House that the royal assent had been given to

The Queensland National Bank Act.

RAILWAY ARRANGEMENTS.

The Hon. G. SANDEMAN asked—

Why the train leaving Toowoomba for Ipswich and Brisbane at 2 o'clock p.m. is detained at Laidley Station for three-quarters of an hour,

to an hour each day, on its route from Toowoomba?"

The POSTMASTER-GENERAL answered—

The train referred to is a goods train which has to be shunted off the line of road to allow the passenger train leaving Brisbane at 3 p.m. to pass.

The Hon. G. SANDEMAN moved the adjournment of the House, for the purpose, he said, of making a few remarks on this matter. He had heard, before putting the question, that that was one reason for the detention spoken of; but, on going into the matter with many residents of Toowoomba interested in the railway, he found that if the train were detained until, say, a-quarter to three or three o'clock, at Toowoomba, it would be a great advantage to the business men of that town and others who were desirous of having a little longer time to themselves of an afternoon than they could command at present, and the train would then arrive at Gatton before meeting the passenger train, and the detention there, as he was told, would not exceed five minutes. Therefore, he threw out the suggestion to the Postmaster-General, whether it would not be desirable to endeavor to have such an arrangement carried out. He had no object in putting the question, except the public convenience. On several occasions he had found it exceedingly inconvenient to be detained at Laidley from three-quarters of an hour to an hour for the passenger train to pass. If the suggestion he made were carried out, it would obviate all the inconvenience complained of. He might take this opportunity to refer to another matter in connection with the railway arrangements. A very strong desire had arisen on the part of the inhabitants of Dalby and others interested in the Western line for a second train daily. He believed that some action had been initiated already, but whether given full effect to or not, he could not say. A second train was very much required, indeed; and he admitted that he was an interested party therein. He should just mention one case in point. In the month of August last, forty bales of wool from his station came down by rail; and, on looking into the accounts of that wool, he found that it came down in eight separate trips, and that the last lot carried comprised only one bale. That was not the only case he could mention; there were many others besides; and they showed evidently that the amount of traffic on the line was far too great for one train only a day to be sufficient to meet it. There were other matters which might be referred to. The extraordinary anomalies which existed in the goods tariff, and which had been already commented upon elsewhere and strongly spoken of, deserved to be mentioned. About five or six months ago he was one of a deputation that waited upon the late Colonial Treasurer, for the purpose of bringing the question before him. The deputation pointed out the anomalies and inconsistencies existing in the tariff. The Treasurer, Mr. Hemmant, was utterly unable to give any explanation; but he said the question should have his full consideration. However, up to the present time, nothing seemed to have been done. The evils were increasing. There was a great deal of dissatisfaction outside, and he would suggest to the Postmaster-General that this question be taken into consideration also by the Government. It appeared to him (Mr. Sandeman) that the combination of the administrative head of the Railway Department, in the person of the Under Secretary for Public Works, and of the executive head, the Commissioner for Railways, had something to do with the present state of things; and that the question should be considered, whether those offices should not be held by two persons, instead of by one person. He believed that a great deal too much of the management of the railway was left to one officer alone, that was the Traffic Manager. He wished to say nothing against that officer, whom he believed to a great extent to be a good officer, in his position; but a great deal too much responsibility was thrown upon his shoulders. He believed, also, that neither the administrative head nor the executive head could attend to the Railway Department as required. He threw out the suggestion to the Postmaster-General whether it would not be desirable to create another officer who should devote his whole time to the supervision of what was now become the most important line of railway. The traffic was increasing so largely that he was sure that the Under Secretary for Works could not possibly do the work required of him in the Railway Department, in addition to his other onerous duties. It was therefore a matter of great importance that with the increasing traffic, the work required to be done should not be thrown upon the responsibility of the Traffic Manager alone. A circumstance which he should mention came to his knowledge only yesterday evening, when he was travelling down that line. He saw a heavy train of trucks, and he asked how many tons it contained: 160 tons of goods were on that train. He asked if the break-power was equal to the weight. Complaints had been made of the break-power of the trains not being sufficient on many occasions. He found that it was not, and that the break power had not been increased since the time when the railway was first constructed! Therefore he thought that the large increase of traffic pointed decidedly to the necessity for considering the matters he had brought before the House. With those remarks, he should withdraw the motion for adjournment.

The Hon. W. HOBBS rose to mention another matter in connection with the railway which he desired to bring under the notice of the Postmaster-General, as it concerned in some respect his own department. Honorable members might have seen a notice at the Post Office that rail-

way tickets could be obtained there. Some time ago he recommended a young gentleman to take a trip into the interior for the good of his health; and, in order to save time, that young gentleman went to the Post Office and bought a railway ticket for the next morning. In consequence of its being very wet weather, the young gentleman did not think it advisable to go next morning; but when he did go to the railway and presented his ticket, the officers refused to take it, saying that it was for a day gone by and was out of date. That, he (Dr. Hobbs) thought, was not the sort of practice for the Government to have anything to do with; it looked like taking money under false pretences.

The POSTMASTER-GENERAL: In reference to the last grievance, he did not think it a very important one. It appeared that the young gentleman referred to had entered into a bargain with the Government that he should get a return ticket on certain terms and conditions;—it was only available for a limited period;—and that he did not comply with the conditions by availing himself of the ticket———

The Hon. W. HOBBS: He begged the honorable gentleman's pardon. It was not a return—it was only a single ticket, to go to a certain place. The weather was rainy, and the young gentleman did not think it advisable to go.

The POSTMASTER-GENERAL: He did not view the matter in the same light, he confessed, as his honorable friend—that the Government should make themselves responsible for the state of the weather. That, he thought, was entirely beyond the control of the Government.

HONORABLE MEMBERS: Hear, hear.

The POSTMASTER-GENERAL: He should trespass on the House to make a remark upon the question raised by the Honorable Mr. Sandeman. When he made inquiries with reference to the question put by the honorable gentleman, and ascertained that the down train from Toowoomba was detained for the period stated, it struck him as unseemly; and he immediately placed himself in communication with the head of the department, and suggested whether it would not be desirable for the train to leave Toowoomba at a later hour of the afternoon, and so give persons desirous of availing themselves of the facilities for travelling by railway more time at that place, instead of delaying them on the journey. He was informed, in answer, that the department found it necessary to despatch the train at the time now appointed, in order not to interfere with other traffic arrangements along different parts of the line. But, after the observations of the honorable gentleman, he (the Postmaster-General) should feel it his duty to bring the subject before his colleagues again, so that if it was possible that the public desire could be carried out with regard to the traffic between Dalby and the metropolis, and in other respects affecting the Western district, it should be done. He was not qualified at the present moment to give an authoritative opinion; but it struck him that if the traffic had increased to the extent stated and was increasing, the department was bound to increase the facilities for the traffic. He had no doubt that if proper representations were made, it would be done. He had personally long been of opinion that great difficulties were attached to the duplicity of offices held by the gentleman who was Under Secretary for Public Works and also Commissioner for Railways.

HONORABLE MEMBERS: Hear, hear.

The POSTMASTER-GENERAL: And his feeling especially was that the work of the two departments was yearly, he might almost say daily, increasing, and that the day was not far distant, at all events, when the offices should be separated, and a competent gentleman found to undertake the duties of Commissioner of Railways alone. It was utterly impossible that a gentleman could keep himself posted up in the details of two important departments such as those of Public Works and Railways, especially when the business was increasing from day to day. He (the Postmaster-General) had no doubt that the matter would be taken in hand by the Government, and seriously considered, with the view to do away with the anomalies that were said to exist at the present time. He felt bound to mention that he was not qualified to speak on the subject, now; but he should take the earliest opportunity to bring it under the attention of his colleagues.

The Hon. A. H. BROWN said it was quite gratifying that some honorable member thought it his duty, as Mr. Sandeman did, to take up the important question now before the House. There was some hope that it would be attended to, judging by the statement of the Postmaster-General, which he had heard with great pleasure. It was worthy of remark that no serious accident to the public had occurred on the railway; and he thought that redounded to the credit of the Traffic Manager, Mr. Statham Lowe. He had heard that officer spoken of as a martinet; but he thought it required a man of firmness and strictness to deal with railways and their management. The statement of the Postmaster-General, that the two departments of Public Works and Railways should be separated and made distinct from one another, was very gratifying; and he hoped that the Government would carry the new arrangement into effect very speedily; because the business of the railways was increasing and the time had arrived—it had not to arrive—when their management should be under a separate executive head. It could not be expected that duties would be satisfactorily performed when an officer had not time to attend to them. The time of the Under Secretary for Public Works was fully occupied in the

Works Department. He (Mr. Brown) should have been better satisfied if the Honorable Mr. Sandeman had concluded with a substantive motion, that the time had arrived when the Railway Department should be separately administered; as he thought if such a motion was brought before the House the majority would vote for it. He hoped the time was very far distant when a calamity would befall the community such as was often read of in the papers as having occurred elsewhere; but, unless the Commissioner for Railways could be more frequently on the lines than was now practicable, and unless he watched personally the conduct of affairs, it was quite possible that a very serious accident might occur, when the necessary change now desired would be too late.

The Hon. F. H. HART: The House ought to feel very much obliged to the Honorable Mr. Sandeman for calling attention to the question. Personally he was very pleased with the answer of the Postmaster-General, that consideration would be given to the subject of reorganising the department. He did not often travel on the railways, and he could say very little about the inconvenience of the present arrangements; but he was very sure, after what he had heard from the Honorable Mr. Sandeman, that many persons who travelled would feel under a debt of gratitude to the honorable gentleman for his efforts for the removal of existing inconveniences. With regard to the railway tariff, he agreed with all that had been said. He was one of the deputation that had been alluded to as having waited on Mr. Hemmant, and that comprised several gentlemen well up in railway matters. They pointed out how ridiculous some of the rates were. In the same class of goods, one quality was charged a certain rate, and an inferior quality was charged a higher rate than the first. Oils and candles, he might mention as in that category. Mr. Hemmant was convinced; and as far as he could see, he decidedly agreed with the deputation, that there were great anomalies in the tariff. He only acted for the Minister for Works, and he promised to bring the subject under the notice of his colleagues. He also expressed his opinion, without going into the subject deeply, that there was no reason why the railway tariff for the carriage of goods should not be based on the same principle as that of ships acting as the carriers of cargoes from England; instead of the *ad valorem* tariff in existence, that the charges should be, as in ships, according to weight and measurement. With regard to the Traffic Manager, he (Mr. Hart) must say that whenever he came into contact with him, he found him an energetic officer who always did his best for the public convenience. He had had very seldom to make complaint, but whenever complaint was made, it was remedied immediately; and the Traffic Manager was always ready to do his best to rectify any mistake or inconvenience. He quite agreed that now the traffic was too much for the existing organization of the Railway Department; and he hoped, from the observations of the Postmaster-General, that something would be done speedily to relieve the Under Secretary for Public Works of his duties in connection with the railways, and that the executive head would be enabled to attend to those duties solely.

The Hon. F. T. GREGORY said he had observed one or two inconveniences that the public suffered under, but he was alive to the difficulty of making arrangements to obviate them on a single line of railway. He referred more especially to the time of trains between Toowoomba and Dalby. A resident of Toowoomba requiring to be in Dalby for one hour only during the business hours of the day must sleep two nights in Dalby; trains left Toowoomba so late in the evening for Dalby, and returned thence so early in the morning. He thought it was quite possible to make arrangements to obviate that inconvenience. He might add that the accommodation between Dalby and Toowoomba, at the present time, was inadequate to the general wants of the public.

The Hon. G. SANDEMAN: Hear, hear.

The Hon. F. T. GREGORY: As already pointed out, the distribution of wool in trucks coming down led to inconvenience and absolute pecuniary loss. He had no intention, now, of following up this part of the subject, nor of touching other points that had cropped up, except the tariff, which had been referred to by the Honorable Mr. Sandeman and the Honorable Mr. Hart. It had been suggested elsewhere that the classification of goods should be reduced under two heads, and that the charges should be made by weight or measurement. He thought that if honorable gentlemen would reflect for a few minutes, they would admit that such a classification would not answer, and that there were at least four or five classes of goods. For instance, there was agricultural produce, for which a special arrangement must be made to meet the agricultural interests of the colony. There was the dead-weight class, such goods as cement, bricks, stone, heavy timber; which could hardly be classified with imported goods, oilman's stores, and other things, which would be a class by themselves. Then there was the class of dangerous goods, gunpowder, inflammable oils, and things which were very liable to damage; and, again, very bulky articles, like carriages. He thought the charges that had been made with regard to classification were not so unreasonable; and that the present classes might be reduced to one-half their number. As regarded the Traffic Manager, he (Mr. Gregory) had some knowledge of the details of such an office, though it was not a branch of the public service with which he had been connected, and he must remark that the Traffic Manager was tied down to certain rules. He was

quite satisfied that if the public was prepared to pay for it, the Traffic Manager was prepared to do a great deal more than was done at present to meet its requirements and conveniences. But it must be patent that that could not be done without increased expenditure. He should be very anxious, if any alterations were to be made in the Railway Department, that the Traffic Manager should have a full opportunity of explaining, either to a select committee or in some other way, his conduct of the traffic on the railways; and that the officer should not be condemned unheard. The officer was very strict; if any complaint was made, it might be amongst his own subordinates, for being a very strict and conscientious man; but not by the outside public.

The Hon. W. F. LAMBERT said he quite agreed with the Honorable Mr. Sandeman that the office of Commissioner of Railways should be apart from that of the Under Secretary for Public Works; and he believed that it was quite beyond the power of any individual to control the railways of the colony at the same time that he had charge of the Public Works Department. The Great Northern Railway now extended to eighty-four miles in operation, and in a few short months it would extend to one hundred miles. Well, he had not heard of the commissioner having been upon that line for some time past. If rules and regulations were to be given effect to, the executive head ought to be there occasionally to see that it was done; rather than perform such important duties at such a distance from the railway as his office in Brisbane. He hoped the Government would do something in the way suggested. They would avoid trouble by having a proper man at the head of affairs, with not too much to do; thus they might avoid those calamities which were heard of in England and in other colonies. He begged to draw the attention of the Government to the fact that they did not accommodate the people of the North, because they had not a proper traffic manager, and because they had not engine power sufficient for the public requirements on the railway. When the line was opened to Dingo Creek, two trains a day were run; but they could not be kept up from the last cause mentioned, and now only one train a day was run. The Government had promised much, and he hoped they would do something to give effect to their promises. The kangaroo had taken possession of the country, stock could not travel over it because there was no feed, so that stockowners were compelled to avail themselves of the railway; yet there was only one truck on the Northern line that was fit to carry sheep. About eighty sheep could be sent down at a time, and the one truck must go backwards and forwards along the line every day, while Rockhampton wanted mutton. It was high time that the Government should do something.

The Hon. H. G. SIMPSON was understood to say that he did not feel that it was at all out of place for the honorable member to bring forward the subject as he had done, inasmuch as everyone in the colony was interested in it. As regarded the second train to Dalby, he thought it might be carried out. He feared, however, in the present position of the Southern and Western Railway, that it would not prevent wool being sent down as it was last August; and the reason was that which the Honorable Mr. Lambert had touched upon as a Northern grievance, the Government were not in possession of sufficient rolling stock. That was the fact of the matter. It would be wise of the Government to take that important matter into immediate consideration. As regarded the tariff, he did not think it could be made so simple as weight and measurement only, without reference to other classification of goods. As the Honorable Mr. Gregory had suggested, it should be a composite tariff, in which there would be charges according to a classification, partly by weight, partly by measurement, and, to a certain extent, *ad valorem*—a fair mixture of all. He (Captain Simpson) could not think that the very complicated tariff now in force was the best, any more than he believed that such a simple one as mere weight and measurement would do. He was very glad that the Postmaster-General had undertaken to bring the question before his colleagues, being certain that the traffic was becoming greater than would warrant the Government in longer keeping the Railway Department and the Public Works Department under one head. The Under Secretary for Public Works had enough to do without the duties of Commissioner for Railways. As regarded the Traffic Manager, he (Captain Simpson) had not travelled as often as some honorable members on the railways; but he could say that when he did go on the line he found that officer very energetic and exceedingly efficient in his work. Everyone who had any dealings with that officer could say the same.

The Hon. G. SANDEMAN rose to reply.

The PRESIDENT said he did not think the honorable gentleman was entitled to reply. However, if the House had no objection, the honorable gentleman could proceed.

The Hon. G. SANDEMAN: He was very pleased to have heard the expression of opinion from the Postmaster-General, that the question of appointing a separate head to the Railway Department should be taken into consideration; because the whole question rested upon that. It was in the absence of supervision, the absence of inquiry into the many matters which arose and which were really too much for a subordinate officer to be held responsible for, that all the evils complained of had their rise. He should be extremely glad to find that the suggestions which had been made would be carried into effect. He differed from the Postmaster-

General in one particular. The honorable gentleman said the question should be considered in the future. Now, he (Mr. Sandeman) could endorse what fell from the honorable Mr. Brown, that the time had arrived when the reform desired should be carried out. A great deal more was said on the subject outside than was heard within the House; and he felt bound to urge upon the Postmaster-General that the question was one that should be dealt with in time. He should consider the desirability of placing a motion on the paper to obtain the opinion of the Council whether the time had not arrived for the reorganization of the Railway Department. He begged to withdraw the motion.

Motion for adjournment, by leave, withdrawn.

THE STANDING ORDERS AS TO PRIVATE BILLS.

The Hon. E. I. C. BROWNE moved the first reading of the Maryborough School of Arts Bill, which he said was a private Bill which had come up from the Assembly. He was unable to make the motion last week, inasmuch as the promoters of the Bill had not complied with the 78th Standing Order, by paying £20 into the Treasury and also supplying the Council with a certain number of fair copies of the Bill. That Standing Order was now complied with, and he produced the receipt from the Treasury that the money had been paid.

The POSTMASTER-GENERAL said he would take this opportunity of drawing the attention of the House to what appeared to be an inconsistency in the Standing Orders of the Council. According to the 65th Standing Order—

"Until Special Standing Orders for the initiation of Private Bills shall have been adopted, this Council will not enter on the consideration of any Private Bill which has not first been considered by the Legislative Assembly, and referred by that body for the concurrence of this Council."

The next went on to state that—

"Every Private Bill sent up from the Legislative Assembly, if accompanied by a printed copy of the report and proceedings of the Select Committee of that House, to which it shall have been referred, shall be dealt with in the same manner as a Public Bill, and shall not be referred to a Select Committee of this Council, unless the same shall be opposed, and then only by motion on notice to be made before the second reading."

Taking those two Standing Orders together, the only conclusion that any person could arrive at was, that when a private Bill was introduced in the Assembly and referred by that House to a Select Committee, and the Select Committee took evidence and brought up their report, and when the Bill, accompanied by the report and evidence, was sent up to the Council for its concurrence, the Bill was absolutely, for all practical purposes, a public Bill; it was printed by the Government, and no further expense would be entailed on the promoters. It was competent for the Council to refer the Bill to a Select Committee; but no additional expense need be, in any way, incurred further than what would be incurred for any public Bill, which it had practically become. The promoters were not to be put to any further expense to recoup the public or the Government for any charge in connection with the Bill. But, unfortunately, a subsequent Standing Order provided that—

"78. Before any private Bill be read a first time in this Council, a sum of twenty pounds shall be paid into the hands of the Colonial Treasurer, for the public uses of the colony, to meet the expenses of such Bill; and a certificate of that sum having been paid, to be filed with the Clerk, shall be produced by the member having charge of the Bill. And the promoter of the Bill shall also furnish at his own cost fifty fair printed copies of the same, and the same number of copies of any amended Bill, for the use of the members, three clear days before the same shall be considered."

Now, if the Standing Orders had made provision for private Bills to be initiated in the Council, one could understand the reason of the Standing Order which he read last being adopted. But, in view of the Standing Order which said in effect that the Council should not for the present initiate any private Bill, it seemed to him that it was most unfair to tax the promoters of a Bill by requiring from them a deposit of £20, besides other expenditure. It must be borne in mind that the promoters of the Bill had paid £20 to the Legislative Assembly for inquiry into the matter. The Council had the benefit of the report of the Select Committee of the Assembly; and he thought that, under the circumstances, it was unjust to impose upon the promoters of the Bill, first, of the payment of another £20, for meeting expenses which did not arise; and secondly, the providing of fifty copies of a Bill, which was a public Bill. He referred to the matter because it was an anomaly which ought to be removed, and in order that it might be prominently brought under the notice of Parliament.

The PRESIDENT: He would inform the House that, according to his reading of the Standing Order to which reference was last made, it merely exempted a private Bill from the necessity of having referred to a Select Committee, which would be its fate were that Standing Order not in existence. The Bill might be treated as a public Bill, and not referred to a Select Committee. The ensuing Standing Orders, of course, referred to every private Bill brought into the House.

The Hon. A. H. BROWN said he did not think the remarks of the Postmaster-General should go without support, because the honorable gentleman had taken a very proper view of the matter before the House. The introduction of a private Bill in the Assembly

was met by provision for expenditure; but when the Bill came up to the Council from the Assembly all costs should be considered to have been paid. He should propose that the Standing Orders be amended in some manner; as they would be better without that provision for the money payment.

The Hon. E. I. C. BROWNE: Hear, hear.

The Hon. A. H. BROWN: However, he should be glad to elicit the opinions of other honorable members on the subject. There was no time like the present to deal with the difficulty. Other private Bills might be initiated this session; and the House should correct what they found was an abuse—they could deal with it as an unintentional error, and correct it.

The PRESIDENT: Of course, it was very simple for the House, if it chose, to forego the charge for private Bills—to pass all private Bills without charge; but it would be necessary in that case to refer the question, if any honorable member would make a motion to that effect, to the Standing Orders Committee, who would bring up a report for adoption by the House. But before acting upon the report, if it recommended any alteration of the Standing Orders, it must first receive the assent of the Governor. The Standing Orders of the House were part of the constitution, and therefore they could not be altered except in a formal manner, very similar to that in which an Act was passed. The assent of the Governor was necessary for the will of the House to have effect.

The Hon. E. I. C. BROWNE: Although not in order, yet if the House would allow him, he should like to say a few words. He did not want to alter the Standing Orders, but simply to carry out the Standing Orders now in force with respect to dealing with private Bills sent up with certain specified formalities from another place, and to deal with them as public Bills. The payment of the £20 to the Council was an anomaly which ought not to exist any longer. It had been made from time to time as private Bills came up, yet it was a fact that on application by the promoters the money had been returned to them; showing that it was not required to meet any expenses of a Bill in the Council; and therefore it was a payment which ought not justly to be called for. That was merely following out the letter of the 78th Standing Order; because, no doubt, there was a contradiction between it and the 65th and 66th Standing Orders. If the latter were complied with, the Bill became a public Bill; but for all that, the 78th claimed the payment of the money. In strictness, it had always been felt that the payment ought not to be made.

The PRESIDENT said he thought the payment was merely to protect the public against loss when the machinery of Parliament was put in force for private purposes;—the Standing Order had been originated, he took it, to prevent the public suffering any loss upon private Bills. He might state that the Standing Orders had been taken from those of other colonial legislatures and from those of the Imperial legislature, and adopted as portions of parliamentary law which appeared to have been approved by long continued usage and practice. Honorable members said the Bill ought to be regarded as a public Bill; but if they would but look at the message which accompanied it from the Assembly, they would see that it was sent up to the Council as "this private Bill." It was not a public Bill, except for the purpose of being advanced through the House in the same way, if not opposed.

The Hon. H. G. SIMPSON said he agreed that there was an apparent complication in this matter; so much so, that, at the last meeting of the Standing Orders Committee, he drew attention to it. The Postmaster-General was not present. Certainly the reading of the 66th Standing Order appeared to limit the treating of a private Bill as a public Bill to the extent of its not being referred to a Select Committee, as it was distinctly specified that the Bill

"shall be dealt with in the same manner as a public Bill, and shall not be referred to a Select Committee of this Council,"

and so on; which might be taken to leave it an open question whether the Bill was to be regarded as a public Bill in other respects. It would be better, under the circumstances, to forego the payment of the £20, so long as the Council left it to the other House to initiate private Bills. The payment to the Assembly covered all expenses. Still, no doubt, the President's solution was the best one. It might properly come from some other honorable member, not from a member of the Standing Orders Committee, to move that the construction of the Standing Orders be referred to the committee, which would be an easy way of effecting an arrangement in the way desired. He thought it was a pity to take the money, as really it was only to pay it back again. In many cases, it was of no importance; but in the present case, he believed it was a matter of some importance to the promoters of the Bill to have to pay the £20. The President would bear him out that there were other matters in the Standing Orders which required looking into.

The PRESIDENT: If honorable members would look into the Standing Orders, they would see that on any person objecting to a private Bill, before the prayer of his petition to be heard was granted, he must deposit £50 with the President,

"to be disposed of according to the decision of the committee as hereinafter provided."

By the 84th Standing Order—

"It shall be competent for the committee to order the return of the said deposit, or of any part thereof, to the Petitioner, or to order that the same be paid into the Treasury, for the public use of the colony."

If that provision were inserted in the case of the £20 to be paid by the promoters, according to the 78th Standing Order, it would heal all the difficulties of the case.

The POSTMASTER-GENERAL: Yes; that would meet the difficulty.

The question was then put and passed, and the Bill was read a first time and ordered to be printed.

OATHS BILL.

On the Order of the Day being called for the second reading of this Bill,

The POSTMASTER-GENERAL said the Bill now before the House was identical in all respects with a measure that was discussed by Parliament during last session, and rejected by the Council, on the motion for its second reading. He had read through the report of the debate in this Chamber, on that occasion; and he had arrived at the conclusion that most of the opposition to it arose from a misapprehension of the existing state of the law, and that the Bill would have passed if its effect had been quite understood. As a measure of the sort was absolutely necessary for the purpose of according to all classes and sections of the community impartial justice, he ventured to hope that after the explanation he should now give, the Bill under consideration would have more favorable consideration from the House than it had before. The Bill dealt solely with the reception of evidence in courts of justice, civil and criminal. Up to about forty years ago no testimony was received in a court of justice in Great Britain except it was given on oath. The Imperial legislature at that time, in the 2nd and 3rd William IV., passed a measure enabling persons who were, or had been, Quakers or Moravians to make, in all cases, a solemn declaration, in lieu of an oath, simply to the effect that the person testifying was or had been a Quaker or a Moravian, and that he solemnly affirmed and declared that what he should give in evidence would be the truth. A similar provision was at the same time made with regard to people called Separatists; their declaration, however, being somewhat of a stricter character. The object of the legislature in allowing this favor, if he might so call it, to the particular religious parties named, was because they had conscientious objections to taking an oath; and from their religious convictions, they had been previously practically debarred from giving evidence in courts of justice. The law remained in that state up to the 18th year of Her present Majesty's reign, when a measure was introduced into Parliament enabling any person who had a conscientious objection on religious grounds to the taking of an oath, to make an affirmation in lieu of an oath. Both those Acts had been adopted by New South Wales and were now in force in Queensland. So far as ordinary cases were concerned, the present law of this colony with regard to taking evidence in courts of justice was as he had stated it: any person who stated that he had a conscientious objection to taking an oath, on religious grounds, was permitted to substitute for the oath a solemn affirmation. The English law was further extended in 1869 by the 32nd and 33rd Victoria, chapter 68, which provided that persons objecting to take an oath on any ground whatever, or being objected to as incompetent to take an oath, should be allowed to make a declaration, and that declaration was to have the same effect as an oath ordinarily administered. The Imperial Parliament passed that law, alleging that the discovering of truth in courts of justice had been signally promoted by the removal of restrictions on the admissibility of witnesses, and that it was expedient to amend the law of evidence with the object of still further promoting such discovery—as he had described. Persons making a declaration in lieu of an oath were liable, to all intents and purposes, to the same penalties, and to the same punishment, in the event of the declaration being false, as if wilful and corrupt perjury had been committed on the administration of an oath. This colony had not yet followed in the footsteps of the mother country, and up to the present time, no advance had been made in the law of evidence corresponding with the advance of Imperial legislation. In 1872, the Imperial Parliament, being shocked at the outrages that had been committed in the South Seas, passed a statute providing for the punishment of certain offences in connection with the labor traffic with Polynesian Islanders; and that law was binding in all the Australian colonies, including Queensland. It was to the effect that if certain offences were committed, such as recruiting labor without the sanction of the Governor of a colony, taking away or forcibly interfering with the Islanders, in a great many specified ways, the perpetrators should be punished very severely;—first, by forfeiture of the ship concerned in the offence; secondly, a penalty of £500 on the master or owner; and, thirdly, the punishment of the guilty parties to the greatest extent allowed by the laws of the colony investigating the charge short of capital punishment. And in order that those offences might be properly investigated and complete justice done in all cases, the Imperial statute made provision for the reception of evidence given by persons who were unable to understand the nature of an oath, and enacted by the 14th section of the statute—35 and 36 Victoria, chapter 19, popularly known as "The Kidnapping Act of 1872"—that where the court, whether civil or criminal, investigating the matter, found that the person who was tendered to give evidence or make a deposition was ignorant of the nature of an oath, it could decide in what form the evidence or deposition of such person should be taken, and it was then held to be as valid as if an oath had been administered in the ordinary way. The

effect of that statute was, that any Polynesian or South Sea Islander, against whom any offence had been committed in the South Seas, prosecuting his claims either civilly or criminally in any court of Queensland, although he did not know the nature of an oath, yet could give evidence; the court deciding the way in which his testimony should be taken; and his evidence or testimony would be received and be as valid as if an oath had been administered to him in the ordinary way. Accordingly, the law of the colony as it now existed, was that oaths were administered under ordinary circumstances; if a person objected to take an oath from conscientious motives or on religious grounds, he could make an affirmation; in cases where offences under the Kidnapping Act were involved, any person ignorant of the nature of an oath could give testimony in such form as the court might prescribe;—but, in all other cases, persons who were not acquainted with the nature of an oath were incompetent to give testimony in court, and were consequently unable to obtain redress for any offences committed against them. The question now arose, was that state of the law sufficient or satisfactory? The Bill, from the nature of its provisions, contended that it was not, and recognised the principle, that every person had a right to give his testimony and prosecute his claims in all civil and criminal courts, even though he might not be cognisant of the nature of an oath; and, in that respect, it was intended to be similar to the statutes of the Imperial legislature to which he (the Postmaster-General) had already referred. The first clause of the Bill was almost *verbatim* a copy of the 4th section of the 32nd and 33rd Victoria, chapter 68; but an interpolation was contained in the second and third lines of the clause, in the words, "shall be ignorant of the nature of an oath." Provision to this effect was practically contained in the "Kidnapping Act" to which reference was already made. The necessity for it had existed for a long time past. We had taken possession of this colony; we had deprived the aboriginal inhabitants of the country which was formerly theirs; and, he thought it would be admitted on all sides that there was a moral obligation imposed upon us to give to the aborigines the fullest protection that law would allow, or that could under any circumstances be accorded to any of our own fellow-countrymen. It was also the policy of our laws to encourage persons from the South Sea Islands to come here in large numbers, and it should be our duty to see that those persons who were invited here, or who were encouraged to come here, and were brought here under the protection and encouragement of our statutes, should have the same facilities for getting redress in all cases as we ourselves had. In addition to those persons, every sort of alien was encouraged by the freedom of our constitution to come here, under the belief that he would have the same full and perfect protection that was accorded to ourselves in all cases. That protection could not be accorded to aliens if the legislature prevented those unfortunate persons from prosecuting their rights who from the circumstances of their country, their habits of life, or otherwise, were not so well informed as to know what the technical meaning of an oath was as well as ourselves. The present condition of the law was, that one of those unfortunate outcasts was unable, if he suffered a wrong, civil or criminal, to get any redress, unless he could produce testimony to substantiate his claim by the formality of an oath, independent of himself. Now, on this point, the questions naturally arose—Why was an oath administered at all?—What was the object of it? The object of it was, as he took it, to deter the deponent from giving false testimony by the fear that he would receive punishment here or hereafter. Well, if it could be brought under the notice of the deponent, that if he gave false testimony he should he severely punished, and if he could be made to thoroughly understand that, surely he ought to be allowed to give his evidence! The mere formality of listening to a certain set form of expression, and kissing a book, did not add, in his (the Postmaster-General's) mind, in any way to the solemnity of the proceeding, if the deponent was made thoroughly to understand the responsibility of his position, and the serious character of the business in which he was engaged; and he thought that could be as successfully done in any other set form of words as it was done under the existing ordinary form of oath which was administered in the courts of the colony, and in as short and impressive a manner as usually marked its administration. On those grounds alone, apart from the justice of the case, he (the Postmaster-General) thought the Government were justified in introducing the Bill in its present shape; but especially on the further grounds which he had already pointed out;—and on those grounds, the House should agree to the measure. They owed a debt of humanity to the aboriginal inhabitants of the colony, which they were bound to pay by affording them the consideration now proposed; they had a similar duty to discharge to the unfortunate natives of the South Sea Islands who were brought to this colony under the encouragement of the laws; and they had the same duty to perform to other persons who were induced to come to Queensland under the belief that they would receive full justice under all circumstances equally with British subjects. Objections had been raised to the introduction of the Bill, on the ground that an aboriginal blackfellow and a South Sea Islander could not be believed. By the Bill it was not provided that blackfellows' and South Sea Islanders' testimony should be conclusive in all cases. It merely provided, in the first clause, that where a blackfellow or a South

Sea Islander, or whoever it might be, was unable to understand the nature of an oath, he should be called upon to make a solemn declaration that what he would depose should be the truth, the whole truth, and nothing but the truth; and, in order that he might have under his notice what would be the result of his failing to tell the truth,—that punishment of a severe character would ensue,—it would be brought pointedly before him in the form of declaration and promise that he would be compelled to make, that if he should not speak the truth he should be liable to the penalties of wilful and corrupt perjury. To this extent the Bill was in advance of Imperial legislation. That simply stopped at the statement that the deponent would state the truth and nothing but the truth, and provided that if he did not do so he should be liable to the penalties of perjury; but it did not bring the fact pointedly under his notice in the declaration that he must make. If the clause should be adopted, the anomaly which he (the Postmaster-General) had already pointed out as existing so far as South Sea Islanders were concerned, would no longer exist. If they suffered injustice outside the boundaries of this colony, they could get redress in the colony upon testimony not given under oath; whereas for injustice done within the colony, whither they come under the encouragement of our laws, we said, "No, you shall not give such testimony, because you do not understand the nature of an oath," and thus refused redress. Although that case pointed to injuries to Polynesians and to their own inability, not being able to understand the formality of an oath, to get redress, yet the difficulty applied equally in the case of our own countrymen. It occurred in the notorious case of Captain Coath, who was indicted, and tried, and found guilty of serious offences, upon evidence *prima facie* sufficient to satisfy a jury; and it was found afterwards, that the very persons who were primarily concerned in the matter and who were in court at the time, but who could not be sworn because they could not understand the nature of an oath, utterly denied the whole evidence given against Coath; and their testimony was taken *ex parte* and believed to be thoroughly true, and Coath was relieved.

The Hon. A. H. BROWN: Hear, hear.

The POSTMASTER-GENERAL: He referred to that case, because it concerned ourselves. There a fellow-countryman was sent to prison on a serious charge, when, if the persons who were primarily concerned in the offence with which he was charged had been allowed to give evidence in court, which, if such a measure as the one before the House was then law, they would have been able to do—though this evidence would not have been conclusive unless the jury were satisfied themselves that it was the truth—he would probably not have been found guilty. The Bill did not propose to make the testimony of aboriginals and Polynesians who did not know the nature of an oath conclusive; but it proposed that such testimony should be received and should be valid as evidence, to be considered by the persons who would be the judges of the facts for what it was worth. Probably in ninety-nine cases out of a hundred no jury or court would decide against a European, or against any other person, on the uncorroborated testimony of a person who did not know the nature of an oath; not unless it was corroborated by facts or by other reliable testimony;—but it was desirable that in all cases the whole truth should be brought out, from whomsoever it could be got, and that in no case should a person who through misfortune was ignorant of the nature of an oath be ineligible to give his testimony in aid of the discovery of truth. He (the Postmaster-General) thought he had dilated sufficiently on that portion of the Bill, and he should now refer to the other part of it which dealt with the question of interpreting. If honorable members referred to the Oaths Act of 1867, they would see that interpreters were bound, before entering upon their duties in any court of justice, to make a very long, formal, difficult, and, in most cases, scarcely intelligible form of oath. The object of having interpreters in courts was, first, that the court should understand the whole evidence taken; second, that the person accused should understand the evidence against him, and also what the proceedings of the court were, and that he should have an opportunity, through the interpreter, to explain his views, and to examine the witnesses on his behalf, and to cross-examine adverse witnesses. Occasion might arise where an interpreter could be obtained sufficiently intelligent to interpret between the witnesses, the court, and the accused; in all other respects eligible, but, at the same time, ignorant of the nature of an oath. Now the interpreter could not possibly have a personal interest in the case, and there could be no objection, at all events, on that ground, to his being affirmed to interpret the truth, and to the trial proceeding, so long as the court was satisfied that the proceedings were being properly interpreted to it and to the person accused. That was all the Bill proposed. The provisions of the first clause of the Bill, with regard to the substitution of a declaration for an oath, were extended so as to meet their position; further, by the third clause, the court should be satisfied under all circumstances that the interpreter understood the language of the accused sufficiently to be able to make a true explanation of the evidence; and, further, the clause imposed upon the court the duty of declaring in what manner the interpreter should be sworn; and further, again, it stipulated that the court should ascertain that true explanation of the evidence and all other proceedings of the court was made to the accused, so that no possible injustice could be done. The Bill went on to provide

that if the presiding judge should be satisfied that true explanation of the evidence could not be given by reason of the incompetency of the interpreter, he could interrupt the trial and suspend the verdict by discharging the jury, and the investigation would be commenced *de novo*. With regard to that portion of the Bill, he (the Postmaster-General) anticipated very little objection; the provisions were very full and very clear; and he thought the House had sufficient confidence, at all events, in the persons who administered justice in the courts of law of the colony, to believe that they would take care that any person who did not understand the language of the country should have proper and full explanation made to him for the purpose of any trial in which he was concerned. With regard to the other part of the Bill, there might be a difference of opinion; but he thought, on the grounds he had already urged upon the attention of honorable members, that out of simple justice, first, to the aboriginal inhabitants of this colony, and next to the other persons who were invited here and encouraged to stay here, in the belief that they would have the full protection of the laws, and every opportunity of testifying in all cases in the courts of justice, the Bill would be passed. When the Bill was last before the House, the main objection was to the aboriginal natives being allowed to give testimony at all. If the majority of the Council were still of opinion that it would be unwise to receive such testimony, it would be practicable, after the second reading of the Bill was passed, to add a proviso in committee, that the evidence of aborigines should not be received unless corroborated by other testimony on oath.

The Hon. A. H. BROWN: Hear, hear.

The POSTMASTER-GENERAL: For several reasons he considered it was unjust to hold that opinion; but, under the circumstances, he must bow if it was the opinion of the House. In order that the colony might stand well in the eyes of the mother country —which, by the action taken in framing the "Kidnapping Act," was evidently of opinion that the South Sea Islanders who were affected by the law of Queensland should have full justice done to them by being permitted the full opportunity of giving their testimony in the courts of law of the colony without the formality of taking an oath, the nature of which they did not understand—the Bill should be passed as it stood. He begged to move—

That the Bill be now read a second time.

The Hon. F. T. GREGORY: After the very clear explanation of the Postmaster-General, as usual upon all matters of law, he should not occupy the time of the House, as he thought he could add very little to what the honorable gentleman had said, even from a different standpoint. In the present instance, his object in rising was to remind the honorable gentleman that in a previous session a measure, but slightly modified from the one before the House, was debated very warmly, and shelved on his (Mr. Gregory's) motion that it be "read a second time this day six months;" and, with a view to explain the reasons why he should take somewhat different action to-day, he might state at once that he was prepared to vote for the second reading of the Bill. The reasons which actuated him on the former occasion, and which, from their speeches, he was sure actuated other honorable members in rejecting the measure, were—that there was no necessity for enlarging, beyond reasonable limits, the power of obtaining evidence before courts of law, and more especially as the class of witnesses referred to were open to grave objections. The form of oath appeared to be very immaterial, provided that the oath was within the limits of the comprehension and binding on the conscience, of the witness; but danger was incurred in enlarging the class of evidence that would be accepted in the courts. A great difficulty was, of course, found in not understanding the language of witnesses. It was to be presumed that the extra formal oaths would be as binding, in the case of particular classes, as was the obligation under which the evidence of Chinamen was taken. Since the question was first raised, he had had time to look into Taylor's "Law of Evidence," from which he would read an extract or two, which supported him in his present view, that it was desirable to consent to the second reading of this Bill, reserving to himself the option of moving some slight amendments in committee. With reference to the previous history of the Law of Evidence, this author said:—

"The first blow aimed at the old law of incompetency, was dealt in the year 1833, by the Act of 3 and 4 W. 4, c. 42, s.s. 26 and 27, which are as follows:—'In order to render the rejection of witnesses on the ground of interest less frequent, be it enacted, that if any witness shall be objected to as incompetent, on the ground that the verdict or judgment in the action on which it shall be proposed to examine him, would be admissible in evidence for or against him, such witness shall nevertheless be examined; but in that case a verdict or judgment in that action, in favor of the party in whose behalf he shall have been examined, shall not be admissible in evidence for him or anyone claiming under him, nor shall a verdict or judgment against the party on whose behalf he shall have been examined, be admissible in evidence against him or anyone claiming under him. And it is further enacted, that the name of every witness objected to as incompetent, on the ground that such verdict or judgment would be admissible in evidence for or against him, shall, at the trial, be indorsed on the record or document on which the trial shall be had, together with the name of the party on whose behalf he was examined, by some officer of the court, at the request of either party, and shall be afterwards entered on the record of the judgment; and such

indorsement or entry shall be sufficient evidence that such witness was examined, in any subsequent proceedings in which the verdict or judgment shall be offered in evidence.'"

That referred, of course, more to the class of evidence than to the form of oath or the admissibility of particular witnesses; though it was the introduction to what the House proposed now to do—to extend the law by taking the evidence of parties who were much more liable to be interested, either to screen themselves or from fear:—

"It was not, however, till the session of 1843 that the hopes of these advocates of reform"—

the converts to Bentham's philosophy—

"were destined to be realised, when a Bill brought into the House of Lords by Lord Denman, was, after considerable discussion, passed into an Act."

That Act was explained, and the most important provision was to the effect that—

"No person offered as a witness shall hereafter be excluded, by reason *of incapacity from crime or interest*, from giving evidence either in person or by deposition, according to the practice of the court, on the trial of any issue joined as of any matter or question, or on any inquiry arising in any suit, action, or proceeding, civil or criminal, in any court or before any judge,"

or other authority having power to inquire into the matter and decide it. Showing that the object was to extend the limits even to parties who were not only in some degree incompetent on account of their interest, but even to those who had been criminally convicted, and who might be presumed to have so bad a reputation as to render their evidence very doubtful. The question of the limits to which the Bill should apply, which was referred to in the fifth clause, was the only doubtful one raised:—

"The words 'court of justice' and the word 'presiding judge' in this Act shall be deemed to include any person or persons having by law authority to administer an oath for the purposes of evidence."

On that he thought there might be some difference of opinion, inasmuch as he had considerable doubt whether the Bill should extend to all classes of courts or only to the superior courts. Yet he admitted that unless evidence was taken in preliminary inquiries, which were held in almost all matters that came before the superior courts, civil and criminal—unless it was admitted, in the first instance, in the minor courts—there might not be another opportunity of getting at that class of information which would be of ultimate value in carrying on ulterior proceedings at law. If the measure could be so amended in committee as to avoid shutting out valuable information, and at the same time prevent too much latitude being given to a very doubtful class of witnesses—that was, by reserving the right to ultimately disregard their evidence altogether—the difficulty that he apprehended would probably be met.

The Hon. A. H. BROWN said, that when the Bill was before the House previously he was very strongly opposed to it. His opinions had in some degree changed since; but, still, in regard to the main part of the Bill—that was, the receiving of the evidence of aborigines—he was still decidedly antagonistic. The Postmaster-General, in explaining the object of the Bill, said that one great object of the policy of the legislature should be to encourage every sort of alien to come here.

The POSTMASTER-GENERAL: He did not say that should be its object; but he stated that it was the policy of our laws to encourage aliens to come here in the belief that they should have full protection afforded to them.

The Hon. A. H. BROWN: Well, assuming the honorable member's reading, he was very glad to hear his opinion; because he had thought that, as a member of the Government, the honorable gentleman was entirely opposed to the introduction of a very valuable class of people, the Chinese. He had thought, from what fell from the Postmaster-General's lips on the Gold Fields Bill, that the honorable gentleman showed antagonism, as the representative of the Government in the Council, to that class—an extremely erroneous idea;—and he was delighted to find, now, that the honorable gentleman had changed his attitude. The honorable gentleman thought well on most subjects, when he addressed himself personally to them, apart from the demands of the Government. But, passing to the question affecting the natives of the colony, the Postmaster-General wished to extend the utmost protection to them for all possible good. With that he (Mr. Brown) agreed; and he thought that, as a rule, the colonists afforded them the utmost possible protection. But, the House had to consider the interests of the colonists as well as those of the aborigines; and, in offering to take the evidence of the aborigines in courts of law, they would be introducing a system which would be very dangerous. He had dealt very extensively with both aborigines and South Sea Islanders. He looked upon them as quite different in character. If the testimony of aborigines were accepted in courts of law, he was of opinion that the lives of colonists would be placed in great jeopardy. He knew by experience that by a persuasive cross-examination, one could get aborigines to tell anything one chose. Although blackfellows might start with the idea that they were telling the truth, yet there was a kind of amiable concession about them which influenced them to say what they thought would please one. Again, in regard to the courts of petty sessions, he (Mr. Brown) thought with the Honorable Mr. Gregory that great danger might arise from admitting that class of testimony to be judged of by ordinary justices The Postmaster-General would concede that the Commission of the Peace was not entirely creditable to the colony or to the Government; many names were in-

cluded in it, of men who ought never to have been made magistrates—of men before whom in their magisterial capacity he should feel his life in jeopardy;—and he believed that such men should not be entitled to receive such evidence as the Bill provided for. With regard to the evidence of aborigines, he thought that should be excepted from the Bill. When a similar measure was first before the House, the honorable gentleman who was now Premier was puzzled over that feature of it; and he volunteered that the provision as to aborigines should be expunged. The Postmaster-General, on the present occasion, had suggested that the House might possibly reject it. No doubt the honorable gentleman saw there was a difficulty in the strong objection of honorable members to the admission of the testimony of aborigines. He (Mr. Brown) was quite gratified at hearing the honorable gentleman's remarks in reference to the very painful circumstance that occurred in the district in which he resided. He could hardly characterise it as other than a judicial murder, because he felt that the effects of the imprisonment of Captain Coath hastened his death. It was very well known and believed by the outside public that Captain Coath was innocent of the charges made against him; but he was sorry to say that the hostility shown to him by the Government of the day in prosecuting him, owing to pressure brought to bear upon them and to the feeling of indignation worked up, not only in the district to which he had before referred, but in Brisbane, by persons in a position to exercise influence in various ways, by public writings, and meetings—that hostility was effectual in getting the unfortunate man imprisoned. What had fallen from the Postmaster-General was, he believed, his genuine opinion, and it was perfectly correct, that that man had been unfairly punished. He referred to it because, if anything, it strengthened an argument in the honorable gentleman's favor, as no doubt the Postmaster-General intended that the testimony of South Sea Islanders should be accepted. From his (Mr. Brown's) own observation, he was led to think more highly of the intellectual capacity of the South Sea Islander than of the aboriginal, and he was not inclined to object to the testimony of the South Sea Islander being received. He could only hope that the court by which such testimony would be received should be one fit to take it into consideration and judge properly of its correctness and reliability. As the Postmaster-General had shown that an oath was not insisted upon under the existing law, when a witness had conscientious scruples, or religious objections to taking an oath—this could not apply to aboriginals;—he did not see why if an oath was not insisted upon in one case relief should not be equally given in another, when precautions were taken to bind a witness to give testimony of the truth. However, he argued now, and he argued last session, that many persons would hesitate to take an oath with the fear of the penalties of perjury before their eyes, who, from their habits of life, would not hesitate to lie deliberately if not sworn to testify to the truth. No doubt the whole subject of the Bill was patent and very clear to the Postmaster-General in his capacity of a lawyer. To avoid any indistinct perceptions of the facts of a case, the interpreter should be able to thoroughly understand the language of witnesses to enable the court to thoroughly sift the testimony brought before it; as, if the testimony were from any cause indistinctly comprehended, from the inefficiency of the interpreter, or from any circumstance, the life of the accused might be placed in great danger. In committee he (Mr. Brown) hoped to make a few amendments, and one was, that an exception should be made in the case of aborigines giving evidence. He should be sorry to take from the aborigines any kind of protection that they deserved. There might be some cases in which they had been ill-treated, and it might, indeed, be very difficult to obtain evidence of ill-treatment; but, on the other hand, the House was bound to look at the probable danger of great evil being done compared with the little good that would accrue in admitting the evidence of native blacks. He should support the second reading of the Bill, on the understanding that he should be permitted to make some considerable alterations in committee.

The Hon. H. G. SIMPSON: A Bill somewhat to the effect of the one before the House was brought up to the Assembly last session, and he was one of those who had a great deal of doubt as to how he should vote. However, he supported the amendment which shelved the Bill. At the time, he gave his opinion, that it was only fair to all the colored races who were excluded from taking an oath, simply because they did not understand its nature, that they should have some standing in courts of justice, but that the privilege should not be to the extent that their evidence should be taken as absolutely equal to that of a European who gave sworn testimony and who clearly understood what he was about;—that their evidence should be taken and considered for what it was worth. That, as he understood from the Postmaster-General, was the intention of the present Bill; and that being so, he should most decidedly support the second reading. The general principle of the Bill he entirely agreed with. The first thing that struck him in going through it was, that in the terms of the solemn declaration which the witness should make, he would know that he rendered himself amenable to the penalties of wilful and corrupt perjury. But a witness might be so illiterate, or such a savage or semi-savage, as to be puzzled by the declaration. There should be provision for some sort of further explanation, according to the condition

or capacity of the witness, than the mere letter or terms of the agreement. Everyone knew that when juveniles and illiterate witnesses were called before a court, they were ordinarily catechised, before being sworn, as to their knowledge of an oath and of a futurestate, and as to their understanding of the punishment for making false statements: the answer was generally, that they should "go to hell" for telling a lie under oath. It appeared to him that something more was required in dealing with witnesses under the Bill than the mere terms of the declaration; and it was necessary that some proviso should be inserted to ensure that the obligations of the declaration should be thoroughly and properly explained at the time that witnesses were brought forward. Except in that respect, there was hardly anything in the Bill that he could see requiring alteration. He did not know that he quite understood the Honorable Mr. Brown. The evidence of Chinamen was taken in court.

The Hon. A. H. BROWN: At the discretion of the court.

The Hon. H. G. SIMPSON: At the discretion of the court. And, as he understood the Bill, that was what it meant; and that was what he always argued for. With regard to the aborigines, he could really see no reason for excluding their evidence any more than that of South Sea Islanders; and most certainly, he would as soon depend upon the evidence of aborigines as upon that of Chinamen; that was, he would receive it for what it was worth—not that it should be taken as absolute, as sworn evidence was taken. He believed that in many cases aborigines were as trustworthy witnesses as either Chinese or South Sea Islanders. He quite agreed with the honorable the Premier with regard to what took place in connection with the trial of Captain Coath, and the agitation raised by a certain little knot of mischievous people at Maryborough and Brisbane. Both towns ought to be thoroughly ashamed of what took place. There was decidedly the most determined set made that Captain Coath should be convicted, whether guilty or not. In his (Captain Simpson's) own mind, he believed that the man was guilty; but the circumstances to which he referred in connection with the case were the most disgraceful that he ever heard of or saw. For that reason, he was decidedly glad the man was subsequently released. He hoped the Postmaster-General would see his way to do something with the first clause of the Bill, with reference to the declaration, and the explanation of its terms and meaning to the witnesses. He should be very glad to support the Bill through all its stages.

The question was put and passed.

NAVIGATION BILL.

This Bill was re-committed, on the motion of the POSTMASTER-GENERAL, for the purpose of modifying an amendment made in the 51st clause. The modification had been adopted by the Marine Board, after full consideration; and it was to the effect, that ships could sail and trade in Queensland waters under "a certificate issued by some other competent authority [besides the Board of Trade and the Marine Board] and recognised and approved by the Board" of this colony.

The Bill was reported as further amended, and the report was adopted.