Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

TUESDAY, 29 MAY 1877

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LEGISLATIVE ASSEMBLY.

Tuesday, 29 *May*, 1877.

Surgeon-Superintendent at Woogaroo.—Questions.—Formal Business.—Railway Accident at Oxley.—Railway Reserves Bill.—Intestacy Bill.

The SPEAKER took the chair at half-past three o'clock.

SURGEON-SUPERINTENDENT AT WOOGAROO.

Mr. GRAHAM begged to call the attention of the House to a matter demanding serious consideration, namely, the appointment of a new Surgeon-Superintendent to the Lunatic Asylum at Woogaroo in the place of the late Dr. Jaap; and, to be in order, he moved the adjournment of the House. In connection with this question, he had had an interview with the Colonial Secretary, who agreed with him that it would be a good thing to get an expression of the opinion of the House on this subject. He was not entirely in accord with the Colonial Secretary on that point; he thought this was a matter for the Executive to deal with, and if their action was wrong, then would be the time for the House to say so. However, the Colonial Secretary had requested him to bring the question forward, and, taking considerable personal interest in the matter, he had done

so. After the death of the late Dr. Jaap, the Commissioners immediately recommended the Government to take steps to obtain the services of a competent medical gentleman as Surgeon-Superintendent; this was on 20th February, 1877, and in the following terms:—

"Your Commissioners feel it their duty strongly to recommend that the Government should make immediate application by telegram, through their Agent-General, to the English Commissioners in Lunacy, so as to obtain through them the services of a medical gentleman practically conversant with the latest system of treatment of the insane, as practised in Europe."

He believed that no notice whatever was taken of that recommendation till the 24th May, when a telegram was sent to Mr. Macalister, the Agent-General at home, to that effect, being some two months after the recommendation had been made by the Commissioners. That recommendation was exactly in accordance with one made by Joint Committee of the House. One reason for making it was, that it had been seen in one case that no regard had been paid to the personal fitness of the officer, but it had been used as a refuge or pension bestowed on a political adherent. The Commissioners had seen the actual necessity of their recommendation, and the immense difference it would make in the successful working of the institution at Woogaroo, in having a thoroughly competent, efficient man in charge of an establishment like that, and the Commissioners were desirous that such a mistake as had occurred in the case referred to should not occur again. In answer to his question on this subject last Wedesday afternoon, the Colonial Secretary said nothing more had been done in the matter. A telegram had been sent home for the purpose of ascertaining the amount of salary that a competent man would require for the position in question; the reply was, that £600 a-year would be enough, but the applicant required the guarantee of a retiring pension after fifteen years' service. The latter part of the proposal could not be acceded to. He recommended that the Surgeon-Superintendent should have £800 per annum, and be able to put £200 of it by in insurance. He thought that would be the better plan. He must say that he had felt considerable interest in the report of the Commission, in which he had taken part, and was disgusted at the length of time that had elapsed before action was taken by the Government, and then at the feebleness of such action. As five months had now passed without further action being taken, he begged strongly to urge on the Colonial Secretary the necessity of the Government taking some interest in this subject, and looking further into it. He confessed that he felt very ignorant himself in the matter when he took part in the Commission, and required some information. He was satisfied that the successful working of the institution at Woogaroo depended almost entirely on securing the services of a first-rate man at the head of it. True, they might get out a man from home with first-rate testimonials who might prove a failure after all. Still they ought to do what they could, and it was time that the Government did their duty in taking steps to obtain such an officer. He moved the adjournment of the House.

The COLONIAL SECRETARY (Mr. Miles) said the honourable member for Darling Downs was correct in the account he had given of his conversation with himself on this question. He suggested that it would be best to move the adjournment of the House in order to fully discuss the subject. He had felt some delicacy in completing the engagement with the medical gentleman who required a retiring allowance after fifteen years' service. The Government felt that they could not bind themselves in this way before they knew whether the gentleman in question was suitable or not. He, for one, would think twice before incurring such a responsibility. It was doubtless desirable that arrangements should be made at once to fill the vacant post of Surgeon-Superintendent at Woogaroo Lunatic Asylum. But he thought it ought to be a condition in the engagement that when the medical officer came here the Government should have the option of dispensing with his services after a certain period, if, as was just possible, he might not suit. Another thing had struck him: he believed that men eligible for this position might be found in the colonies; he thought it might be better to communicate with the colonies, and find out whether suitable superintendents could not be got there, who would be nearly on the spot. On the whole, he thought it better to take time, and endeavour to get a proper officer, than to go to work hurriedly, and incur a great deal of trouble and expense, and, perhaps, not get a suitable man after all. He was quite sure that the Government was anxious to see final arrangements made for filling up the vacant post.

Mr. WALSH thought that honourable members ought to have more time to take into consideration the report of the Commissioners, before coming to a conclusion on so important a question as that now before the House. Honourable members were now asked to consider the report; he believed that the Commission had worked hard, and endeavoured to do their duty to the country. At the same time, the question was one that could not be hurried on in such a hasty manner; honourable members ought to be afforded more time to consider the evidence

taken before the Commissioners, and the report founded thereon.

Mr. PALMER endorsed every word of the honourable member for Warrego, and hoped that the honourable member for Darling Downs would withdraw his motion for adjournment, with the view of giving notice of a day when he would bring this question forward. Honourable members would then come prepared to debate a question of such importance. No good result could follow from its discussion on the mere motion of adjournment. He believed it was most important to have a first-class man, not only at Woogaroo, but in all the reception houses of the colony. But as to the retiring pension after fifteen years' service, he hoped no Government would make such an arrangement, though his own opinion was that £600 a-year was not sufficient remuneration for a first-class practitioner. He believed that there was none in Brisbane with less than £1,000 per annum; how then could they expect one to come out from home for £600? He thought they should err on the side of liberality, if at all; he thought £1,200 was not too much for such a man as they would expect to get, and who would hold his office simply at the goodwill of the House, and as the judges did during good behaviour. He hoped the honourable member for Darling Downs would withdraw his motion of adjournment. As the chairman of a Commission which had been appointed some years ago he thought he ought to know something about the question; but he acknowledged he should like more information before dealing with it at present.

Mr. BELL agreed with every word that fell from the honourable member for Darling Downs. It was not at all a useless way of bringing the subject before the House; the matter involved no question of principle, but only the appointment of the best officer that could be found to fill the post, and he believed he would be paid by the colony most handsomely for his services. It was desirable to get such an officer from England, though eligible men might be in the colonies; still there was wider scope for selection by going home. There was no principle that required discussion in connection with this question, but the point insisted on by the honourable member for Darling Downs was, the unnecessary delay that had already occurred in obtaining this officer. Any further delay was useless. If he occupied the position of Colonial Secretary he would not delay for one hour, but at once, this evening, send a telegram home for the appointment of such an officer, and come down, at an early opportunity, with the full assurance that the House would sanction the action he had taken.

The PREMIER (Mr. Douglas) thought it was not wise to act precipitately in a matter of so much importance as this. He entirely differed from the opinion of the honourable member for Port Curtis, that it was necessary to give a medical superintendent £1,200 a-year; he believed that they could get an admirable young man of large experience from the lunatic asylums at home for £600 a-year; no better opening could be wished for by a young man of ability. On the whole, it was better to get a young man of some experience, than an older man with an established reputation and practice at home. The late appointment at the Grammar School here was a most satisfactory one. Mr. Roe received £800 a-year, and had carried off high honours at home, and had borne out here the high reputation he had sustained elsewhere. It was quite probable the Government might be as successful in filling up the appointment in question. He hoped the suggestion of the honourable member for Dalby, as to sending home by telegram to make the appointment at once, without further delay, would not be acceded to. Though the present arrangement might not be deemed satisfactory on all hands, yet he could assure honourable members that marked improvement had already taken place under the present Superintendent at Woogaroo. It must be remembered that the Surgeon-Superintendent obtained free quarters besides his salary. With £800 a-year, he believed they might secure the services of a very efficient young man for this position.

Mr. MOREHEAD thought that the Premier had not touched the point alluded to by the honourable member for Port Curtis, which was, that they expected to bring out a young man here for a salary of £600, while many medical men in Brisbane were making much larger incomes. He had some knowledge of the difficulty of obtaining efficient medical men in his own district; £1,000 a year was guaranteed to a competent man. They were not likely to get a good man at so low a salary as £600 per annum, who would place himself in a worse position than other professional men. He did not think this was the time for discussing the general question as to whether Dr. Webb was qualified or not for his position. He thought it would be well if the honourable member for Darling Downs would withdraw his motion for adjournment, and give notice of motion for some evening when the whole subject might be fully discussed.

Mr. IVORY could not agree with the closing remarks of the last speaker. He thought that the point raised by the honourable member for Darling Downs had been entirely lost sight of. The question was, whether the Government were prepared to take the sole responsibility on their shoulders. The matter had been brought before them since Feb-

ruary last, but they had shirked their responsibilities. They wished to feel the pulse of the House to see how the Opposition and how their own party would take the matter. When they saw the road smoothed for them they would take action, and not before. He had seen various occupants of the Ministerial benches, but the present Government shirked all responsibilities. The point raised by the honourable member for Darling Downs was, whether unnecessary delay had not taken place in carrying out the recommendations of the Commission in obtaining a Surgeon-Superintendent. He agreed with all the remarks of the member for Dalby, and thought that the Government ought to accept the responsibility of taking further action in this matter.

Mr. STEWART said he should be glad when the report of the Commission was brought forward in a proper way, so that the whole question might be thoroughly discussed. He did not see that the House could do anything more, however, than express its opinion upon the question of remuneration to the Surgeon-Superintendent until the Estimates came on, and then the amount of salary could be discussed, but he thought the Government might very well take up the matter now. Great pains ought to be taken in the selection of an officer; it should be done—not hastily, but carefully and deliberately. They need not confine themselves to a salary of £600 a-year; but on the other hand he thought the other sums mentioned were too much. If he was not mistaken the Surgeon-Superintendent of the lunatic asylum in a neighbouring colony only got £800 a-year, though he was a man competent in every respect—a better one could not be got. He thought £800 or £1,000 a-year, with free quarters, would be ample remuneration for anyone taking charge of the institution at Woogaroo. He thought the Government were wise in not agreeing to the retiring allowance; such an arrangement, if agreed to, might lead to litigation, or the keeping on of an officer incapable of doing his work. He had scarcely any faith in the sufficiency of merely sending home a telegram respecting this matter. He thought the Government should write by the first mail to their Agent-General at home, enclosing full particulars as to what qualifications were required, and get out a report from him. That way of doing business would necessarily take some months. He thought that no delay should be allowed to take place; but at the same time, it ought to be done carefully, and a proper selection to be made. There were many matters in the Commissioners' report (which was a most exhaustive one) to which he could give his full assent, but from some of them he dissented. There was one thing he must take exception to now: It was stated that the requisitions made for certain articles had not been attended to; some of those articles had not been mentioned to him in any way—others had been authorized long before the Commission sat. He thought that the thanks of the House were due to the members of the Commission for the way in which they had carried out their work. It had been well and very carefully done. He for one had been very glad to take this opportunity of discussing the question.

Mr. GARRICK thought there could be no doubt that there was very much matter in the report of this Commission requiring the attention of the House; but there was one conclusion that all must come to—that a Surgeon-Superintendent was required at Woogaroo, and that no time should be lost in looking about to find the best man to fill that place. He quite concurred in the opinion that the best way was not through the telegraph, but through the mail, to inform their Agent-General at home of what was required. He agreed with the honourable member for Port Curtis that nothing was more undesirable or dangerous than for the Government to induce professional men to come out here from home, and to be dissatisfied and finding that their remuneration was less than that of others of their class. Unless they happened to be extremely conscientious men, it could hardly be expected that they would discharge their duties so well as if they were thoroughly paid. There was no objection to the engagement of a comparatively young man, as such were frequently found to be more vigorous and energetic than those who were older. He certainly thought that no more time should be lost in this matter, and the proper plan would be correspondence with the Agent-General at home.

Mr. GRAHAM thought that the manner in which he had introduced this question should prove that he had not for one moment made it a party question; on the contrary, he had held previous consultation with the Colonial Secretary, being anxious that some further action should be taken. Some slight disposition had been shown to enter into the discussion of the report. That was not his intention at the present time, but simply, in conjunction with the Colonial Secretary, to try and get him to take action in this matter. It was all very well to say that marked improvement had taken place in the institution under the management of Dr. Webb, the present superintendent. But it was only fair to infer that this improvement was to some extent due to the Commission which had lately been sitting, and the recommendations they had made in their report. Moreover, Dr. Webb might have had special inducements held out to him of the prospect of succeeding to the

vacant post. They all knew the old adage, "New brooms sweep clean;" and he had no hesitation in saying that neither Dr. Webb, nor the late Dr. Jaap, nor any other man that had had charge of Woogaroo, was a fit man for that position. The treatment of the insane had become an especial branch of study as professional training in the old country. He spoke on a subject of which he was not utterly ignorant, having some previous knowledge thereof; he had made it his business to visit the asylum at Gladesville, in New South Wales, now under the supervision of Dr. Manning. Such an exceptional man as that deserved £1,200 a-year. He had succeeded thoroughly in his vocation, so that he could do as he liked in his department, and was never interfered with by the visits of any board of visitors. Though he (Mr. Graham) had generally considerable faith in the honourable member for Port Curtis, he could not follow his advice in this case, but would take his own course. He was simply pressing on the Executive, who had the power in their own hands to make the appointment by any means they chose, whether by telegram or by mail, the necessity of getting some person capable of taking charge of the institution as soon as possible. The honourable member for Brisbane had impressed on the House the necessity of great care in making the appointment; but four months had already elapsed since it was recommended. For two months the Colonial Secretary was in ignorance of the recommendation, and the last two months he had done nothing. When the honourable gentleman first took office, he thought he had done so with the object of making a vigorous start; but if this instance was a fair sample of his vigour, it was not a very favourable one.

By leave of the House, the motion was then withdrawn.

QUESTIONS.

Mr. J. Scott asked the Colonial Secretary—

1. Is it the intention of the Government to place a sum upon the Estimates-in-Chief, or on the Supplementary Estimates for the year 1877-78, for the purpose of erecting a building suitable for a gaol, in connection with the District Court at Springsure?

2. Will the Government, in the meantime, proclaim the existing lock-up as a temporary gaol?

The Minister for Works (Mr. Thorn) replied—

1. No.

2. The proclamation referred to is not considered necessary.

Mr. Garrick asked the Secretary for Public Works—

Is it the intention of the Government to place a sum on the Estimates for 1877-8, for the purpose of making a survey of a line of railway to Sandgate?

The Secretary for Public Works (Mr. Thorn) replied:—

It is the intention of the Government to set apart a sum of money, to be provided on the Loan Estimates, for the survey of a line of railway to Sandgate.

Mr. Fox asked the Secretary for Public Works—

If a sum of money has been, or will be, placed upon the Estimates for 1877-8, to defray the cost of building a courthouse at St. Lawrence? If so, how much?

The Secretary for Public Works replied—

A sum of £500 will be placed on the Estimates for the erection of the building referred to.

Mr. Stewart (in the absence of Mr. Groom) asked the Colonial Treasurer—

1. What has been the total cost of the steam dredge "Groper" up to the present date?

2. Is it true that the machinery of the "Groper" is of such an indifferent character and inferior work as to be almost useless?

3. Have any representations been made to the contractors on the subject?

The Colonial Treasurer (Mr. Dickson) replied—

1. The total cost of the dredge "Groper" to date is £25,671 7s. 1d.

2 and 3. A full report upon the matters referred to has been laid before Parliament, and will be in the hands of honourable members during the present week.

FORMAL BUSINESS.

The following formal motions were put and passed:—

By Mr. McIlwraith—

That an Address be presented to the Governor, praying that His Excellency will be pleased to cause to be laid upon the table of this House, copies of the undermentioned papers, viz.:

1. All correspondence between the late Governor and his Responsible Advisers, on the subject of the reservation for Her Majesty's assent to "*The Gold Fields Act Amendment Bill*" of last session.

2. All correspondence between the late Governor and the Governors of other Australian colonies in reference to said Bill.

3. The late Governor's covering despatch to the Secretary of State for the Colonies in forwarding said Bill.

4. The circular note printed in the public journals, purporting to have been signed by John Douglas, Vice-President of the Executive Council, and addressed by him in that capacity to the Premiers of other Australian colonies, with the replies thereto, if any.

5. All Executive minutes, if any, bearing upon the reservation and disallowance of said Bill.

By Mr. BEATTIE—

That there be laid upon the table of this House, all papers connected with the Reserve for Rifle Range in what is now known as Victoria Park in map or plan of Brisbane, issued from the Surveyor-General's Office, dated July 30th, 1862; and also copies of all correspondence connected with such range, its withdrawal from use as a rifle range, and any correspondence with regard to obtaining this or any other rifle range in the neighbourhood of Brisbane.

By Mr. BUZACOTT—

That there laid upon the table of this House, copy of a letter or petition addressed to the Government or any Minister, praying for the making of a road through portion 174, parish of Goodna; any reports thereon by Mr. Walne, or any officer of the Roads Department in the Ipswich District; all other petitions, correspondence, and papers on the subject of the said proposed road, including the report of the shorthand writer present at the proceedings in connection with the matter before the Cabinet on 13th March, 1877.

Mr. GARRICK moved for leave to bring in a Bill to prevent and punish disorderly conduct in places of religious worship.

Leave having been granted, the Bill was introduced, read a first time, and the second reading was fixed for the 7th June next.

By Mr. MOREHEAD—

That there be laid upon the table of this House, a Return showing in detail the expenses incurred for the various Royal Commissions which have been appointed during the present Parliament; such return particularly setting forth the sums of money, if any, which have been paid to members of the Legislature as members of such Commissions.

By Mr. BEATTIE—

That there be laid upon the table of this House, Copies of all correspondence respecting the sum of £60, paid in April last, alleged to be then due for making uniforms for No. 1 Battery, Q. V. Artillery, in the beginning of 1876; such correspondence to contain copies of all reports from the various officers connected therewith.

RAILWAY ACCIDENT AT OXLEY.

Mr. GRIMES moved the adjournment of the House for the purpose of calling the attention of honourable members, and more especially of the Minister for Works, to the recent railway accident at Oxley. It appeared from the papers which had been laid upon the table, that the accident in question was caused by an intoxicated man grasping at the train and falling between the platform and the carriages, thereby throwing the carriages off the line; but the fact to which he desired more particularly to direct attention was, that after the carriages were off the line, by some means or other they proceeded a distance of 400 feet, damaging the permanent way in their course, before they could be stopped. He considered that was a matter which required some explanation. Had the accident happened ta some of the other stations on the line there might have been serious loss of life, by the carriages being precipitated down an embankment. He thought the Minister for Works should make some further inquiries into the matter, so that steps might be taken to prevent such accidents in the future.

The MINISTER FOR PUBLIC WORKS said he had not thought it necessary to offer any explanation on the matter referred to. Considering the position of the station, and the length of the train, he thought the distance it run after the carriages were thrown off the line very short indeed. He should, however, make inquiries on the subject from the officers of the department.

Mr. THOMPSON took advantage of the motion for adjournment to call attention to the fact, that it was not at all an uncommon thing to see drunken men on railway platforms; and an imperative order should be issued that no drunken man should be allowed there, because, although they might be perfectly right in risking their own lives, they should not be permitted to risk the lives and property of the public. If a man chose to get into a state of intoxication and presented himself on a platform, he should be at once turned off; but instead of that, he was most carefully guarded so that he did not injure himself, and he was put into a carriage with, perhaps, respectable people, and the train moved off. He thought they should have no maudlin sympathy with men who got drunk. Let them endanger their own lives if they wished, but they should not be allowed to place other people in danger.

Mr. MCLEAN said there was another aspect of the question that the Minister for Works might inquire into, and that was, where this man got the drink which resulted in his intoxication before he went to the Oxley station. He (Mr. McLean) did not see how they could exclude drunken men from railway stations as long as intoxicating drinks were sold at those stations. It was necessary, in the first place, that the drink itself should be excluded; and he thought it was a disgrace to the Government that, in a young country like this. they should establish the very system in connection with refreshment rooms which railway companies in the old country were abolishing as fast as they could. A great many railway accidents in the old country had been traced to servants of the companies getting intoxicating drinks at railway stations, and the result had been to arouse the attention not only of its directors but also of the public to the fact, and steps had been taken to prevent the sale

of such drinks at the railway stations. He had read regulations at the railway stations, to the effect that no drunken man would be allowed on the platform, but before they could do that they should prohibit the sale of intoxicating drinks at the stations.

Mr. O'SULLIVAN said it appeared to him that the honourable member who had just spoken had intoxicating liquor on the brain. He did not mean that he was in the habit of drinking it, but it seemed to get there somehow. He (Mr. O'Sullivan) would ask that honourable member, did he suppose if there were no refreshment rooms, or no houses for the accommodation of the public where grog was sold, that men would not get drunk all the same? He was satisfied that if the honourable member wished to put down drinking he was beginning at the wrong end; and that the sale of it could not be stopped by not selling it at refreshment-rooms, because if people did not get it there they would get it at some shanty close by.

Mr. PALMER said he endorsed some of the remarks of the honourable member for Burke, and he thought the honourable member for Logan ought to go a little further, and not merely prevent the sale of intoxicating drinks but prevent their being made or openly used. The honourable member had drawn a comparison between this colony, where they had refreshment rooms, and the old country; and he (Mr. Palmer) could say that he had travelled in the other colonies, and in New South Wales, where no spirits were allowed to be sold at the railway refreshment rooms, he felt sure if the honourable member went there he would find that the balance of drunkenness was in favour of railways where drink was not sold; and the reason was, that a man, knowing that he could not get a glass when he wanted, took a bottle with him and drank a great deal too much. He did not believe that any legislation would ever prevent drunkenness.

Mr. BELL thought the honourable the Minister for Works ought not to pass lightly over the suggestion of the honourable member for Bremer; for, as one who travelled over the railway lines here somewhat frequently, he could say that the presence of drunken men on the platforms and in the railway carriages was an absolute nuisance. If there were a distinct order issued that any man clearly intoxicated should be immediately sent from the platform and not allowed to enter any railway carriage, it would be a very useful order. He did not agree with the view taken by the honourable member for Logan, because he believed, with the honourable member for Port Curtis, that legislation was not going to prevent this—he would call it "vice." It seemed a very pleasant vice to some; to others it was a most prejudicial vice; and the only course he could see for the honourable member for Logan in the future was, that he should provide some pleasanter stimulant of a less intoxicating character.

Mr. GRIMES was not altogether satisfied with the reply of the honourable the Minister for Works, It would be all very well to say the train could be stopped in 400 feet if at full speed, but it seemed remarkable that it could not be stopped within that distance just as the train was starting and before speed had been got up. He agreed with honourable members as to the necessity for preventing intoxicated persons from going on railway platforms or into railway carriages, but he thought it was rather hard to throw on railway officials the onus of deciding whether a man was intoxicated or not, when it often took a bench of magistrates some time to determine the same question—at what stage intoxication really commenced and the man was unable to take care of himself. He begged to withdraw his motion for adjournment.

Motion withdrawn accordingly,

RAILWAY RESERVES BILL.

On the Order of the Day for the resumption of the debate on the Railway Reserves Bill,—

Mr. WALSH said, he thought it would be advisable to further adjourn the debate till to-morrow. He was assured there would not be a quorum present after tea, and there was not sufficient time to discuss this important subject during the interval. Moreover, the honourable member who moved the adjournment of the debate at the last sitting of the House (Mr. Groom) was not present, and if that honourable gentleman had not authorized anyone to move the further adjournment, he had no hesitation in taking that duty upon himself. He would move, accordingly, that the debate be further adjourned till to-morrow.

The PREMIER said he was sorry the honourable member for Toowoomba was not present, but he hardly thought that that was a sufficient reason for the House not to go on with such an important debate. At the same time, he had no desire to interpose against the wish of the House, but he would remind honourable members that there was yet an hour and a-half available for the discussion if it was thought advisable to go on with it. He hoped, however, that the House would come to a decision on the second reading of the Bill to-morrow night; and if honourable members on the opposite side would recognize that, there would be no objection to the further adjournment.

Mr. PALMER said he was of opinion that the debate ought to be adjourned; but he

objected to any conditions of the kind mentioned by the Premier being imposed upon the House. If honourable members intended to speak on the subject, they must certainly take their own time. He hoped the Premier would not labour under any misapprehension on that point, for he should not agree to it, nor, he believed, would any member on this (Opposition) side of the House make any such engagement on this or any other subject.

Question put and agreed to—the resumption of the debate to stand an Order of the Day for to-morrow.

INTESTACY BILL.

The ATTORNEY-GENERAL, in moving the second reading of the Intestacy Bill, said the law relating to intestate estates had on several occasions during the last few years received the attention of this House. More than once a measure to enable the real estate of intestates to be distributed amongst their next of kin had passed its second reading here, but those Bills never became law, owing to their being framed in such a manner as not to meet the difficulties of the case. Besides that, on two occasions recently, the attention of the House had been called to the present law relating to the administration by the Curator of Intestate Estates, which was admittedly in an unsatisfactory state. On both those occasions he had promised to deal with the matter, if possible, during the then session; but it was so large, and required so much consideration, that it was found impossible to bring in a suitable measure during the time specified. He trusted that the present Bill would meet all the difficulties that had hitherto arisen in connection with this subject. At present, when a man died intestate all his personal property could be administered by the Curator of Intestate Estates, and the Curator deducted 10 per cent. for doing so; but real estate was passed to the heir-at-law, who, in nine cases out of ten, was a child, and very often one of several children. In many instances the whole property of the deceased man consisted of his land, and the widow was entitled to nothing with which to support herself and educate her other children. Honourable members must be familiar with cases of that nature, and must long since have come to the conclusion that the existing law of succession to intestate estates, by which all the land went to the eldest son, was unfitted for the circumstances of a colony like Queensland. There was another matter of almost equal importance. Only the other day he received from the Curator of Intestate Estates, in the ordinary course of that officer's duty, a list of the real property of which he possessed the title deeds. Those titles represented a very large amount of property, and the Curator wished to know what he was to do with them. But nothing could be done with them until the heir-at-law appeared in person, and in many cases it was certain that the heir-at-law would never be found. That was a matter entirely unprovided for by the existing law. The next alteration to which he would call attention was that relating to the system of charging made by the Curator of Intestate Estates. The present system of charging was anything but a good one. There was no reason to think that any man had ever sold property for the purpose of getting his percentage on the transaction; still the principle was vicious, and the charge of 10 per cent. was simply ridiculous. The rate was formerly 5 per cent., but in 1867, when the laws were consolidated by some process never yet adequately explained, a proviso was inserted, levying the charge of 5 per cent. each on two kinds of property; but the necessary addition that these charges should not be cumulative was left out, and the Supreme Court had decided that they should be cumulative. Another important matter was the desirability of appointing a public trustee, upon whom any man making his will might be able to leave the administration of his property. There were many persons who could not conveniently name executors or trustees, and that was no doubt one reason why in some cases men preferred to die intestate. It was thought advisable, therefore, that an officer should be appointed as public trustee, whom any testator might name as his executor. Those were the principal points in the measure before the House. The first part of the Bill was to a great extent formal, and a re-enaction of the present Act—excepting that it was not proposed to pay the Curator of Intestate Estates by commission, but as a public officer, although the estate might fairly be charged some small amount for the expense of administration—and a trifling alteration with regard to the agents of Curators. The second part of the Bill dealt with the succession to real estate. It was a principle of law that no property could be at any time without an owner, and this, which was not provided for in the New South Wales measure, was met by a proviso, that when a man died, not having made a will, his property was at once vested in the Curator. By this means there would always be an owner for every piece of land in the colony, and the value of such property would not become depreciated. But in those cases it was necessary that the powers of the Curator should be limited, and that he should not be allowed to dispose of any of the property without the leave of the court. It was also provided that in the event of a man having made a will, but the devisees were not in the colony, or were infants, the Curator

might apply for an order to administer the land, taking charge of it and managing it—care being taken that such powers should be used not otherwise than for the benefit of those who were beneficially interested in the property. There were other provisions relating to the division of land amongst the children with a view to prevent expensive litigation. The third part, relating to personal estate, did not differ substantially from the present law; it had certainly been made a little clearer and more intelligible. The fourth part related to administration, and could be more suitably explained in committee than on the present occasion. The general provisions in part five were supplementary to those in former portions of the Bill. One of its provisions was of great importance. When administration was granted to a creditor, the creditor generally administered solely with a view to recovering his own debt, beyond which he had no care; and under the existing law there was no power to take the administration away from him and give it to some other person. That state of things would now be altered. There were also provisions in part five which related to the law of intestacy. By the 51st section married women were to be allowed to dispose of land by will. At present a married woman was by law incapable of making a will, and, therefore, when she died she died intestate. By the Real Property Act a married woman was enabled to dispose of land as fully as her husband, and there was no earthly reason why she should not dispose of it by will as well as by grant. The 52nd section provided that the Curator might be appointed trustee under a will, if the testator desired it; and the 53rd section made it an offence to conceal a will. The Bill, as would be seen, dealt tolerably fully with all subjects relating to intestacy, and would remedy, he ventured to hope, those evils which, up to the present time, had been found most grievous. The Bill was one which entirely deserved the attention of the House. The tendency of modern legislation was to take the greatest care of those who could not take care of themselves, and this measure, although it related to adult persons, would be a most effective measure for carefully administering the estates of orphans. It was not proposed to bring the Bill into operation until the 1st July, 1878, and it would require to be sent home for the sanction of Her Majesty. He would now move that the Bill be read a second time.

Mr. Thompson said that this Bill was of far greater importance than the mere title of it seemed to indicate. The second part of it was of particular importance, namely, the part which related to real estate, inasmuch as it proposed to deviate from the system they had inherited from their forefathers. That the change was a wise one he admitted; but he complained that it should have been put into a more administrative Bill of this sort, for he was afraid that honourable members had viewed the Bill only as one relating purely to intestacy. The present system was a system of primogeniture, by which the eldest son succeeded to all real estate. The system now introduced was not exactly the converse to that; it did not provide that a man's real estate must be divided amongst all his children, but that if he did not indicate the way in which he wished his property to be divided it should be distributed amongst his heirs in the same way as personal property. In fact, it put personal property and land on precisely the same footing; and if they looked at that fact with the eye of common sense, and were not blinded by traditions and circumstances which no longer existed, they would see that there was no reason why real estate should descend in a way different from personal estate. It was a different thing under the old feudal tenure, where the eldest son inherited the whole estate, and was supposed to provide defence for it, and so on. But those circumstances had passed away, and it was no longer desirable, in our modern state of civilization, that the succession to landed property should differ from that to real property. On the other hand it might be said, that the minute subdivision of land was as great an evil as the accumulation of large estates. In France, and some other continental countries, there was a compulsory division of real estate on the death of the owner. By the plan proposed the evils of both systems were avoided. The Bill left it to a man to do as he liked with his estate, but in case he did not devise it equal justice was done to all his family interested. That provision was, in his opinion, a very good one. Some people might think that it was unwise to encourage the subdivision of property, inasmuch as it was desirable to keep up large estates, with the view of preserving the Conservative element. But in a young colony like Queensland they need not trouble themselves about that matter; for many generations would elapse before property would be so minutely subdivided as to be found any particular inconvenience. With regard to the manner in which the Attorney-General proposed to deal with this subject he saw no objection. Until administration was taken out for personal estate persons in possession held it, and very often administration was never taken out, and those in possession dealt with it as their own. He deemed the plan proposed in the present Bill for doing away with that difficulty a very good one, and the Bill he considered a very great improvement on that of New South Wales. He observed with pleasure that it was intended to do away

with the commission system. Any public officer paid by commission was necessarily either over-zealous or very careless; that was to say, he was over-zealous in cases that would pay him, and very careless in cases that would not pay him; and the sooner they did away in all public matters with the system of remunerating officers either by fees or commission the better. The distribution of intestate estates was essentially a matter of administration, over which the Courts could not have proper control, and therefore the Curator should be connected with some Government department, so that he might be made answerable both to the Secretary of that department and to this House. One of the evils of the present system was, that if a person wanted to do anything with the Curator you must take him to the court, and that involved heavy expense; in fact, one of the greatest blots upon the present system was the enormous expense in administering small estates. He knew of some estates where the assets were small, and where those assets were nearly all swallowed up in legal expenses. There was one estate, for example, the assets of which amounted to £20, and the expenses of the Curator in getting the money, passing the accounts and so forth, amounted to £8; thus leaving only £12 to represent the whole estate. He knew of another estate in which the assets were originally only £12; it was the case of a poor destitute woman, who wanted the money badly, and at the present time all that was left in the hands of the Curator was £5. He therefore thought that the scale of fees mentioned at the end of the Bill should be subject to some sort of amendment. For his own part, he would suggest the adoption of a sliding scale, under which small sums should be exempt. One case to which he had referred was a person who got her living by work; and honourable members would agree with him that that was a case in which fees should not be charged at all. In the other case, the person lived in a remote district of New South Wales; so that the whole of the money would be absorbed in costs. He thought, also, that some provision should be made with reference to small cases in the District Court. The District Court, or the Court of Petty Sessions, should be able to make orders in small matters. He did not see why the Metropolitan District Court could not make these orders with much less expense than the Supreme Court in cases under £300. He, himself, could see no objection to this. Another thing that would operate well would be, with regard to the control of the Curator, who should be placed under the Auditor-General, and become a branch of his department, so that the whole machinery for investigating accounts would be at hand, and matters could easily be got at either by Parliament or the parties concerned. Having said this much, he was bound to say there were some rather stringent provisions in the Bill, and he hoped honourable members would pay great attention to them as the Bill passed through committee. There were a few matters of detail in addition, to which he would call attention when the Bill had reached that stage. For example, there was a very stringent provision contained in the sixteenth clause, and as it was a provision that might operate very detrimentally, it should not be passed until it had been well thought over. Indeed, there were some matters that would have to be undoubtedly altered before the Bill could be allowed to pass in its present shape, and he had no doubt that the House would hit upon something that would in the end answer the views of all persons. This remark, however, did not apply to the clause which he had said was much too stringent, and it should certainly be left plain as to whether the Curator, upon information upon oath being given to him of the facts mentioned in the clause, might cite the devisee to come in and show cause within fourteen days why an order should not be made for him to administer the land. There was a provision, too, with regard to the extinction of dower and courtesy, which could not very well pass, because there were widows and widowers alive as to whom it might be said that until they died out you could not do away with the rights mentioned. The provision enabling a married woman to make a will was a step in the right direction, and would do away, once for all, with the much-vexed question as to the powers of a married woman to make a will under the Real Property Act, and it would do away with that vexed question in a very desirable way. With regard to the salary of the Curator, the Attorney-General did not say what he intended to give. Probably the honourable gentleman intended to make that a question of Estimates.

The ATTORNEY-GENERAL: Yes.

Mr. THOMPSON said that, upon that point, he only wished to say, that a man filling the position of Curator should be well paid, so that he might be above temptation. He would hold a most important and responsible position, especially when lands came into his hands, and he (Mr. Thompson) hoped the Attorney-General would not think such a person worth only £500 or £600 a-year, but would decide upon something much more considerable, and get a thoroughly good man to do the work. Any other matters he might wish to refer to were matters of detail, to which he (Mr. Thompson) would call attention in committee; at present, he would content himself by repeating that

he was glad that a matter so important had been brought before the House.

Mr. MOREHEAD said, as he had taken a good deal of interest in the subject, or at least one branch of it, he would seize this opportunity to congratulate the Attorney-General upon the measure he had introduced, so far as that portion of the Bill in which he (Mr. Morehead) was interested was concerned. That portion was part one, relating to the Curator of Intestate Estates. The general proposals that were made in the Bill he should most cordially support, not only as a step in the right direction, but as a long and much desired step. He quite agreed with the remark of the honourable member for Bremer, that if they were to have a salaried officer to perform this important duty, he must be a well-paid man, and he (Mr. Morehead) was glad to find the Government were determined to do away with that most pernicious system of paying this officer by commission. He also agreed with that part of the Bill which provided that the future Curator should be an officer under the control of the Auditor-General, and therefore to that extent amenable to the House. The whole question had been so fully dealt with by the honourable member who preceded him that he himself had very little to say; but before he sat down he would observe that he would be quite ready to give his assistance towards passing a really useful measure, and it was not a little gratifying to find that the Attorney-General and the honourable member for Bremer were, on the main principles of the Bill, in unison. He believed the measure, when amended, would give satisfaction to the colony, whose vital interests it affected.

Mr. PALMER said, that without making the slightest pretensions to being a lawyer, he could not help saying that so far as he could see the intentions of this Bill were very good. But, in common with the honourable member for Bremer, he objected to the Bill being brought in under such a title. He suggested whether it would not be possible for the Attorney-General to alter this title; and if he would do so, he would effect a very great improvement. Who, for instance, would look for a law altering the vital principles of the law of primogeniture in an Act to amend the law relating to the distribution and administration of estates of intestates, and to provide for the due administration of estates, &c., &c.? However, this was a matter of detail which he mentioned by way of a suggestion to the Attorney-General. There was, however, one clause in the Bill which, according to his present lights, he (Mr. Palmer) could not support—he referred to clause 16, which set forth:—

"When any person shall have heretofore died or shall hereafter die having made a will devising any land within the Colony of Queensland and the devisees thereof shall not within six months after the death of the testator have taken possession of the land or the devisees shall be infants the Curator upon information on oath being given to him of the facts may cite the devisees named in the will to come in and show cause within fourteen days after such citation why an order should not be made for him to administer such land."

As far as he could understand this clause, if he left landed property in the colony to devisees who might be in England, or on the Continent of Europe, and not to be found for years, or if his children were infants at the time of his death, the Curator had the power of coming in to manage his property in a manner that would probably virtually set aside the whole intention of his will.

The ATTORNEY-GENERAL: If there are no trustees.

Mr. PALMER said that for that matter he never heard of a man who made a will without nominating trustees. But suppose he chose to appoint trustees resident in England. Simply because they were not to be got at six months after his death the whole disposition of his will was to be set aside, and the Curator could come in and do pretty well what he liked with his property. It might be property of enormous value, which thus came under the operation of the 16th clause, and he would ask honourable members whether that was a kind of clause they would agree with. The remaining part of the clause was still more important, and showed how great was the necessity for honourable members to study all the little details of these legal Bills, even though they might not understand their technicalities; showed also how necessary it was that these Bills should have the best explanation that could be afforded respecting them when they were brought before the House. The latter part of the 16th clause, to which he was now referring, said:—

"Such citation shall be by notice under the hand of the Curator and shall with respect to such of the devisees as shall have a place of residence within the colony known to the Curator be served personally or by delivery at such residence and as to such of them as may be out of the colony or have no known place of residence within it shall be twice published in the *Gazette*."

He should like to know what person in Europe was likely to see a copy of the *Gazette* of Queensland. However, the clause went on to say:—

"If at the expiration of such fourteen days cause shall not be shown to the satisfaction of the Supreme Court or a judge thereof why the order should not be made such order shall upon the petition of the Curator be made accordingly."

This most certainly was calculated to do away with the wishes of persons who made

wills, and left others to manage their property, although they might have taken great pains to draw up their will and devise their property in a particular manner. He agreed with other honourable members that something good might be made of the Bill; and for that purpose he hoped full attention would be paid to the different clauses in committee.

Mr. MURPHY said the main principles of the Bill had been already affirmed by the Legislatures of the other Australian colonies, and it was a matter for regret that they had not taken effect in Queensland. The main principle of it could scarcely be overrated; and he was glad that, although exception had been taken to the fact that the Bill did not sufficiently set out what the effect would be in certain cases, a general desire had been expressed to deal with it on its merits. With regard to the 16th clause, to which exception had been taken, he agreed with the objection raised, for it seemed to him that the passing of such a clause would interfere with the principle which such an Act was intended to embody, namely, that if a person chose to make a will, his property should not be dealt with by the Curator of Intestate Estates in the manner described. The Bill, as he understood it, by the 16th clause, indicated that, notwithstanding the making of a will, the Curator under the circumstances detailed would have the power to interfere to a very serious extent. Honourable members would therefore see that it was a clause that should not pass without close attention being paid to its bearings. He would point out that it was a very common thing for persons to buy land in the name of minors, intending that when they were of mature age and in a position to deal with it, it should be theirs. A person might wish to leave property to an infant, hoping that when that infant came of age the land he devised would be of considerable value. This 16th clause struck at the root of the right of every man and woman in the country to deal with such property as they pleased, and interfered with the rights of persons who chose to deal with their property by will and devise it as they please; and it was not the business of any Legislature to place obstacles in the way. With that exception the Bill had his approval, especially that portion which maintained the right of a married woman to dispose of property. The Real Property Act said that a married woman might hold property, but it also said in effect that she must not will it. In other words, what the Act gave with one hand it took away with the other; and he was very glad to see that by this Intestacy Bill such a contradictory state of things was vigorously dealt with. He noticed, however, that there was a provision that would operate unfavourably in the bush, where a married woman could not make the acknowledgment spoken of in the general provisions. The Bill stated that

"It shall be lawful for any married woman seized in her own right of land or any estate or interest in land to devise bequeath or dispose of the same by will as effectually as if she were a *femme sole* Provided that such will shall be acknowledged by her in the same manner as any instrument of conveyance by her *inter vivos* would by any law now in force or hereafter to be in force require to be acknowledged but her husband's consent shall not be required to any such will and he shall not be precluded from taking under it."

Now this might be impossible in distant parts of the colony, and it was a clause that should be most carefully considered; for if married women were to be said to have the right to hold real estate, they should have the same right as men enjoy in dealing with it. He agreed with the other honourable members who had addressed the House that something really valuable might be made of this Bill in committee.

Mr. BEOR said he should like to say a few words upon the subject raised by the introduction of the Bill, and would express his gratification at the outset that the clauses which did away with the remuneration of the Curator by fees and commission were so generally approved of. Not only was it a step in the right direction to provide that the Curator should no longer be paid in this way, but he should like to have seen in the Bill itself some distinct provision respecting the Curator's salary. He (Mr. Beor) was bound to state that there were many points upon which he took exception to the Bill; and he, like the honourable member for Bremer, was strongly opposed to so important a measure as the upsettal of all rules hitherto held with regard to real property being incorporated in a Bill of this kind. He (Mr. Beor) would even go farther than that honourable member, who seemed to approve of the measure itself though he disapproved of its being introduced into a Bill of this sort. Under this really unpretending Bill, with a not very ostentatious title, there were no less than three distinct measures, two of them more important than the measure which the title pointed out as being intended by the Bill to be brought in. One of these was, of course, that which proposed an entire alteration in the law relating to the succession of real property. The other was the proposal with regard to the partition of estates. In the English statutes there was a special Act devoted to the partition of estates, and it was a subject that should be dealt with much more fully than in the Attorney General's Bill. In fact it deserved a Bill by itself. It would give the Supreme Court the power, upon the application of anyone interested in property, to divide

it as it might think best according to what it considered to be the *bona fide* intentions of the persons leaving the property. A measure to give the Judges power to make such a partition upon the request of persons interested certainly deserved a Bill to itself; and there ought to be some further directions given as to how these powers were to be exercised. Then there was an important provision introduced, altering the way in which real property was to be dealt with on the death of its owner. And this also was a measure which might be discussed by itself, and receive the most ample consideration the House could give it. To change the whole course of the mode in which real property had hitherto descended from person to person by a short paragraph like that inserted in the Bill, and to do it under the veil of another title altogether, not pointing in the least degree to the change to be made, was, to say the least, a very dangerous course to pursue. For his part he did not agree with the honourable member for Bremer, nor, of course, did he agree with the honourable the Attorney-General in thinking that it would be a good thing that real property should descend as personal property; on the contrary, he differed from those gentlemen altogether. In his opinion, it was a very great advantage that the eldest son should inherit land. The custom had proved to be of great advantage in England, and it had proved to be of enormous disadvantage in other countries on the Continent, where real property was divided in the same way as personal property, on the death of the owner. For this reason it was, he believed, that the wealthy landowners in England and Scotland and Ireland were the most useful members of society. They did a great deal of work for the country without remuneration; they represented parts of the country in Parliament which otherwise might not be represented at all, and it would be a very good thing if in course of time in this colony there came to be established a class similar to them. It would be a very good thing indeed if this colony could have men able to devote their time to such business as the quarter sessions in the old country. He did not, for his part, see how a local govarnment was to be carried on unless a class of this kind existed. The result of the legislation in France, to which the proposed legislation in some degree approached, had been almost entirely destructive to that class of society which existed, as he had pointed out, in the three kingdoms—a class that was willing and anxious, was pleased and proud to give their services to the country, not only in the Parliament itself, but in those minor departments which, if not less important, were less conspicuous modes of service to the country. To do away with all hope the colony might have of such a class, this clause in the Bill was likely to do, and to do it in this disguised fashion, was perilous. If such a course was to be taken it should be taken more boldly, and in such a manner that the whole question might be fairly and fully discussed. In the case of persons dying beyond the jurisdiction of the court, it did seem to him there was unnecessary haste in dealing with the property of persons out of the colony. Clause 29 stated:—

"When any person shall have died having made a will and named executors or an executor thereof bequeathing personal property within the jurisdiction of the said court and probate thereof or letters of administration with the will annexed shall not have been obtained within six calendar months after the death of the testator the Curator upon information on oath being given to him of such facts shall cite the executors named in the will to come in and prove the same or show cause within fourteen days after such citation why an order should not be made for the Curator to administer the estate."

This was much too hasty.

The ATTORNEY-GENERAL: That is a transcript of the existing law.

Mr. BEOR said that the existing law was, therefore, bad, and should be altered, and if it was not altered it would be an unfortunate thing that, while the Attorney-General was mending the law he did not carry his mending further, and insert a clause providing that when an executor happened to be out of the country he should have some time given to him to come before the court—more time, at any rate, than fourteen days. It was because of anomalies like this that he was glad an amended Bill had been introduced, and he hoped all necessary improvements would be made in committee. In other respects he certainly thought the Bill desirable, and should join with other members in giving his best attention to it in committee.

Question—That the Bill be now read a second time—put and passed.

The Bill having been made an Order of the Day for this day week,

The House adjourned at ten minutes to six.