Queensland

Parliamentary Debates
[Hansard]

Legislative Council

TUESDAY, 25 NOVEMBER 1884

LEGISLATIVE COUNCIL.

Tuesday, 25 *November*, 1884.

Diagrams of Land Bill.—Licensed Surveyors and Selections.—Brands Act Amendment Bill.—Pharmacy Bill.—Stoppage of Traffic on North Quay.—Crown Lands Bill.—Jury Bill—committee.—Crown Lands Bill—committee.

The PRESIDENT took the chair at 4 o'clock.

DIAGRAMS OF LAND BILL.

The POSTMASTER-GENERAL (Hon. C. S. Mein) said: Hon. gentlemen,—In pursuance of an order of this House, I lay upon the table diagrams illustrating how divisions shall or may be made under clauses 26 and 27 of the proposed new Land Bill. I may mention that I lay these diagrams upon the table out of deference to the House's order, but that I myself attach very little value to them. It is purely the idea of the Minister for Lands with regard to the way in which the subdivisions ought to be effected. The subdivisions will be dealt with by themselves when they come before the board. Each case will be dealt with on its merits; and the diagrams simply indicate the idea of the Minister for Lands and of the Government as to the manner in which these divisions should be carried out, and no more.

LICENSED SURVEYORS AND SELECTIONS.

The HON. A. J. THYNNE moved, pursuant to notice—

That there be laid on the table, a Return showing,—

1. The number of licensed surveyors in the colony, specifying the number employed in Government work.

2. The approximate number of (*a*) conditional selections and (*b*) homestead selections applied for in the colony which remained unsurveyed on 30th September last.

Question put and passed.

BRANDS ACT AMENDMENT BILL.

The PRESIDENT announced a message from the Legislative Assembly, intimating the concurrence of that Chamber in the amendment of the Legislative Council in this Bill.

PHARMACY BILL.

The PRESIDENT announced the following message from the Legislative Assembly:—

"MR. PRESIDENT,—

"The Legislative Assembly having taken into consideration the Legislative Council's message, of date the 12th instant, relative to the Pharmacy Bill—

"Insist upon the amendments in clause 5, because without them the Government would be limited in their choice of the members of the pharmacy board to medical men, which would cause that board only to be a repetition of the present Medical Board.

"Because the members of the pharmacy board would not be of necessity examiners, but from their experience would be able to direct the lines on which examinations should be conducted, and to appoint examiners whose specialities would be Latin, botany, chemistry, etc.

"Because the examination of candidates as to the knowledge of the qualities of drugs, and their ability to detect adulterations, can only be safely entrusted to men who have had great experience in the sale and purchase of drugs.

"Because of the English Pharmacy Board very few of the members are themselves examiners.

"Because it is not unusual in academical bodies that examinations for degrees or diplomas should be in part conducted by persons not themselves holding the degree or diploma.

"Because the chemists of this colony are desirous of abolishing the present unsatisfactory system, and claim that they only wish to substitute a better one for their own credit and the safety of the public.

"Because the object and intention of the Bill would be practically defeated without the amendment; and

"Agree to the amendment of the Legislative Council on the amendment of the Legislative Assembly in clause 28.

"W. H. GROOM,
"Speaker."

On motion of the HON. A. J. THYNNE, the consideration of the message in committee was made an Order of the Day for to-morrow.

STOPPAGE OF TRAFFIC ON NORTH QUAY.

The HON. W. H. WALSH: Hon. gentlemen,—I intend to move the adjournment of the House, in order to call the attention of, I may say, the citizens of Brisbane, to the fact that, owing to an order issued by the Supreme Court to-day, traffic was stopped in one of its principal streets, to the very great inconvenience, I believe, of the travelling public; and I think it is a matter that requires the consideration of the Government. I am quite aware that the municipal council of Brisbane is utterly incapable of dealing with such a matter. It seems to have lost all power and control over the management of its affairs, especially when the Supreme Court is in question; but it does not follow that we, who also have a duty to perform towards the inhabitants of the cities of the colony, should fail to do it. I therefore call attention to the fact that, without rhyme or reason, so far as I can learn, and without any notice whatever, a certain roadway—a principal roadway—in the city of Brisbane was blocked up to-day, and that when I asked a constable why, he said by order of the Supreme Court. Orders of the Supreme Court, to me, are always offensive, because I know that they are generally very arbitrary, not fortified by law, and invariably directed by the whims of the judges who constitute that court. I do not mean to say that it is so now; but, at any rate, I am repugnant to them, because I know that they override the law, and when we ask them where they get their power from, we are told from the common law of England. That, to me, is objectionable, and I rebel against it. At any rate, it is a fact that one of the principal thoroughfares of the city was blocked up to-day; passengers were allowed to get into it at the beginning and end before they were informed that traffic was stopped, and to my knowledge persons driving vehicles were met by constables who ordered them back, and said it was by order of the Supreme Court; and when a constable was expostulated with, and asked why travellers were not informed of the fact when entering the street, the answer was that there were not sufficient constables to enable them to do so. However, it was so, and dozens—probably scores—of vehicular passengers were turned back from passing over a road that had never been barred before; and then

they were told as a reason why they were subjected to this ignominy and had to retrace their steps, and be laughed and jeered at by the crowd through whom they had to pass on their return, that it was because there were not sufficient constables in the colony to enable a single man to be stationed at the end of the street. I can thoroughly understand that the municipality of Brisbane is in such a dilapidated state that such a thing can exist; but the Government ought to take it into consideration. I was an eye-witness of it; I was a sufferer by it. For that I care little; but here we have one of the principal thoroughfares of the city absolutely denied to the public between certain hours of the day by order of the Supreme Court; and then, as if ashamed of their proceedings, later on it was thrown as open as any other street for public traffic. I have made a certain charge against the municipal council of Brisbane; I do not think they are capable of dealing with so momentous a question as the keeping open of their streets. I am perfectly sure that they are not capable of dealing with even more momentous questions when the questioning authority is a judge. But that is no reason why we should not do so. The municipal council which has tacitly sanctioned one of the biggest—I do not say frauds, though that would be the proper word—one of the greatest evils that ever was sanctioned, that of a private company monopolising the main street of the metropolis by a double line of tramway——

The HON. F. H. HART: Hear, hear!

The HON. W. H. WALSH: I am glad to hear the cheer of the Hon. Mr. Hart, for nobody can know better about this subject than he. The municipal council that can sanction such a fraud on the people of the city as to allow a private syndicate to occupy their main street by running a double line of tramway down it—and, I regret to say, with the sanction of the Government—what can we expect from such a council? Upon my word it seems to me to be coming very close upon the powers in connection with the transcontinental affair. I can see very little difference between the two—the only difference is that one was to be constructed at the expense of the colony, while in the other case the citizens of the metropolis will be the sufferers. The municipal council who can passively sit in their seats and admit the propriety of the main street of the capital of the colony being monopolised by a double line of tramway for the benefit of a speculative syndicate—that corporation is not worthy of being taken into consideration; nor can we expect that in the case of such a street as the North Quay, the street to which I refer, they will show themselves to be the custodians of the liberties and rights of the people; and therefore I venture to mention the matter in this Chamber. I say that to-day, without any sufficient reason, probably at the whim of the Supreme Court, the large traffic along the North Quay was impeded in a way that was not just to those obstructed in their passage; and, as far as I know, the municipal council were not considered in the matter. I beg to move the adjournment of the House.

The HON. J. TAYLOR said: Hon. gentlemen,—I am very glad the hon. member stated the street in which traffic was obstructed, because I came along George street at five minutes to 1, and there was no obstruction in that street then. With regard to tramways running down Queen street, I believe he is perfectly right. I do not know what the corporation were thinking of to allow such a thing; and I cannot imagine why the owners of property in that street have not got up a petition or a memorial to prevent such action as is going to take place in reference to tramways. I say distinctly and deliberately that if that tramway is made it will reduce the value of property in Queen street 50 per cent. I have mortgages on property in that street, so that I speak feelingly as well as truthfully; and I am perfectly satisfied that the value of my securities will be reduced by one-half in consequence of the action of the corporation in allowing a private tramway to go down Queen street. It is one of the most ridiculous things a corporation could possibly allow to be done. The street is only a chain wide; and so much will be taken off for pathways at the sides and a double line of tramway down the centre, that not only will the value of property be reduced, but numerous accidents will be caused. I hope some steps will even now be taken to prevent that from being done.

The HON. W. PETTIGREW said: Hon. gentlemen,—With reference to the North Quay, this is the first intimation I have had of the obstruction of traffic. I suppose the mayor has done it at the instigation of the judges of the Supreme Court. The tramway down Queen street, however, is in a measure authorised by this House; and hon. members should have made their objections when the Bill was passed. It was left to the discretion of the municipal council to construct the tramway or not as they chose; and so far as I was concerned I was in favour of the council carrying out the work, but the majority thought otherwise, so it is left in the hands of a private company.

The POSTMASTER-GENERAL said: Hon. gentlemen,—This is a somewhat irregular discussion, but perhaps I may as well make a few remarks. I differ from the previous speakers with regard to the subjects raised. My experience of the Supreme Court is probably more extensive than that of the Hon. Mr. Walsh, and I have a higher regard for the orders of that court than the Hon. Mr. Walsh apparently has. My experience of the decisions of the Supreme Court, both personal and by observation, is that they are carefully and justly considered; and I do not think the public of Queensland have anything to regret with regard to the constitution of that court, which will bear comparison both as to ability and integrity with any court in the Australian colonies. And this little impediment in the traffic—why, one would think from the way in which the Hon. Mr. Walsh spoke that the whole of the North Quay had been blocked, while as a matter of fact only a distance of about 200 yards is kept free from traffic while the court is sitting. There is a very important case on now in which the life of an individual is at stake, and it is only right that vehicular traffic should not be allowed to cause any impediment to the transaction of the business of the court, or to interfere with the administration of justice. It is a well known principle that the administration of justice shall not be interfered with; and in recognition of that principle the judges are clothed with very extensive powers. I noticed a paragraph in the *Courier* to the effect that the transaction of the business of the court was interfered with yesterday owing to the traffic, and that the Chief Justice asked the Attorney-General to have the matter rectified. Steps were taken to rectify the matter; but, judging from what the Hon. Mr. Walsh has said to-day, they have not proved to be sufficient. The result is, that some person, directed by the Chief Justice in pursuance of the authority in which he is clothed by the law, has made arrangements

by which vehicles shall not travel over that particular piece of ground mentioned. What inconvenience does the public suffer? The obstruction only involves a detour of 200 or 250 yards at the outside; and persons who are in the habit of going that way are informed by a policeman that for the proper transaction of judicial business it is desirable and necessary that vehicles should go round another way. With regard to the tramway, I differ from the Hon. Mr. Walsh and the Hon. Mr. Taylor. The Hon. Mr. Pettigrew is quite correct when he says that the Legislature s responsible for the powers conferred on persons to run a tramway down Queen street. I am afraid my hon. friends have not travelled much, or they would have observed that tramways of the description contemplated by this company are in existence in all populous cities, both in Europe and in the United States. In Europe there is hardly a street as wide as Queen street; and instead of property being depreciated, experience has proved, both in America and elsewhere, that the value has largely increased owing to the construction of tramways; so that the Hon. Mr. Taylor need be under no apprehension as to the value of his securities. Even in Sydney, where they use motors, which are very inconvenient so far as vehicular traffic is concerned, experience has shown that the value of property has increased 100 per cent. since the introduction of tramways. But it is too late in the day to deal with this question; it is of no use trying to lock the stable-door after the horse is stolen. Hon. gentlemen should have taken exception to any objectionable provision in the Tramways Act when the measure was under consideration.

The HON. W. GRAHAM said: Hon. gentlemen,—I take it for granted that the Hon. Mr. Walsh's description of the manner in which people driving down the North Quay are stopped is correct; and I think such stoppage is a great mistake. If it were merely a matter of turning off into another street, I do not suppose anyone would grumble very much; but to drive as far as the Supreme Court, and then have to turn back and go another way, is very aggravating to one's temper; and no doubt it was aggravating to the Hon. Mr. Walsh's temper. I think better arrangements might have been made. Moreover, it is a matter for regret that when this court was built the question was not thought about, for it has cropped up in other places. It seems to be a necessity that law courts should never be built near crowded thoroughfares, and though this does not actually abut on any street, still the traffic on both sides must be sufficiently noisy to reach—whether from any defect in the building or from its being too near, I cannot say—to reach the rooms and interfere with the hearing of witnesses. It would be a serious matter if the sound administration of justice should be interfered with from such a cause; but it seems to me that the streets are made for the use of the public, and it seems altogether arbitrary that any judge, in spite of all the powers given to him—and no doubt rightly given—should interfere with the right of the public to use the streets. If, however, they do so, and do it through the municipality, very great pains ought to be taken that no more annoyance than necessary is caused to the citizens. As to the tramways I decidedly agree, not with the Hon. Mr. Mein, but with previous speakers. The Postmaster-General says that there are very few wider streets in Europe than Queen street, but I can quote a great many wider streets, and also a good many wider streets which have only a single line of tramway. Two lines will block the traffic of Queen street and drive it to the other streets. Fortunately, I am not in the same position as the Hon. Mr. Taylor. I have no mortgages in Queen street; but I have some interest in the side streets, where property will probably increase in value as the traffic is driven from Queen street. In Sydney, the tramways have, in some cases, prevented people from taking their carriages to their own doors; and it will be impossible for people driving vehicles to go shopping unless they are perfectly sure of the quietness of their horses. Looking at the question from a personal point of view I think in all probability I shall be benefited; at the same time I do not believe in a double line. A single line, with ordinary traffic on each side, would be feasible and reasonable, but a double line will drive all the other traffic out of the street.

The HON. W. F. LAMBERT said: Hon. gentlemen,—I think this House and the colony is indebted to the Hon. Mr. Walsh for bringing before this Chamber and the country the fact that traffic has been stopped in a certain street in Brisbane in consequence of the sitting of the Supreme Court. It brings to my memory a very severe case that occurred within the last eighteen months at Rockhampton. The court-house there is situated a little distance off the main street, which street is the approach to the Fitzroy Bridge. That street is the only outlet from the city in the northern direction. For a similar reason, I suppose, to that given for the action of the court on the present occasion, traffic was stopped there, policemen being stationed near the court-house to prevent people driving past. An innocent selector, a respectable man who did not know that the court was sitting and who was in the habit of going along that road to the trader with whom he dealt, drove past in his spring-cart before he was seen by the constable. Immediately he had got past, a policeman went after him, and overtaking him seized his horse, while another policeman took him in charge and brought him before the Chief Justice. The man, who as I said before knew nothing about the sitting of the court, was sentenced to be imprisoned until the rising of the court. I think that was very rough treatment indeed. The whole difficulty or inconvenience in that case could have been got over by publishing a notice in the papers two or three days before the sitting of the court to the effect that the traffic would be stopped. I am glad the hon. gentleman has mentioned the matter to the House.

The HON. A. H. WILSON said: Hon. gentlemen,—I quite agree with the remarks made by the Hon. Mr. Graham. It is a very arbitrary proceeding on the part of the court to stop the traffic altogether. I remember that in the old country, when a judge was holding a court in a court-house situated in a busy thoroughfare, tanned bark and sawdust were put down on the street to lessen the noise, and the traffic was not interfered with. I do not see why something of the kind should not be done here, instead of interfering with traffic. It is a very simple matter, and would prevent any annoyance to the public.

The HON. W. H. WALSH said: Hon. gentlemen,—In reply, I have only to say that I am fighting the battle of the travelling public. I maintain that, if the Supreme Court has the power of obstructing the passage of one of the main streets of the city, it ought to provide that proper arrangements should be made to prevent travellers being made fools of by going into a *cul-de-sac*, and then being ordered back by an ignorant constable in the usual style of the constabulary. That is what I object to. I do not at all object to the judges of the Supreme Court being armed with powers absolutely necessary to enable them to carry on the business of

the court; but I do insist that, as we are not slaves, and are not absolutely under the dominion of the municipality of Brisbane, we should determine that whenever an attempt is made to interfere with the liberty of the subject it should be made in the most decent manner possible. I do not think there is an institution in the world which interferes so much with the liberty of the subject as the Supreme Court of Brisbane. Its power is omnipotent. It seems to me to have no bound. We are not allowed on any account to interfere with its edicts or doubt its judgments. Officers of the court, like my hon. friend the Postmaster-General, are bound to obey, and we must therefore make allowance for the good character he has to give the court, or the defence he thinks necessary to make for it. He would be a marked man if he did not do that. I know enough of the Supreme Court to be aware that no lawyer dare, in his place in Parliament, show that independence of spirit that a layman does. Probably it would ill become them, and it certainly would not conduce to the advantage of their practice. We must, therefore, I say, make allowance for the defence which has been offered by the Postmaster-General. But persons not under any obligation to the court must now and then stand up for and support the rights and privileges of the subjects of the country. If the Supreme Court had ordered that a rope should be stretched across those streets which have been shut up at its dictation, or had made some provision;—I do not expect any provision to be made by the municipality; it is capable of doing nothing more than allowing its best streets to be handed over to the subjection or destruction of private parties; that seems to be the acme of their efforts;—I say if provision had been made stationing a constable at each end of the street I should not have objected; but when I see that one constable only is stationed there, and that scores of persons sitting in vehicles are subjected to the treatment I have described, I begin to think—Is it such a thing as Englishmen should submit to, or that persons who are not members of the municipality should sanction? I do not think I need detain the House any longer. I could reply to some of the remarks made by the Postmaster-General, but do not deem it necessary, and I am quite satisfied in having aroused a feeling of self-respect in this Chamber; and probably it will have some good result on those people who visit Brisbane, if not upon those persons who actually reside in the city. With the permission of the House, I beg to withdraw the motion.

Motion withdrawn accordingly.

CROWN LANDS BILL.

The POSTMASTER-GENERAL said: I find that there are some gentlemen who wish to take part in the discussion on this measure in committee not present just now, and as they may be in their places after dinner I beg to move that this Order of the Day be postponed until after the consideration of Orders 4 and 5. I expect to be able to go on with the Crown Lands Bill after dinner.

Question put and passed.

JURY BILL—COMMITTEE.

On the motion of the HON. A. J. THYNNE, the President left the chair and the House resolved itself into a Committee of the Whole to consider this Bill in detail.

Preamble postponed.

Clause 1—"Jury districts"—passed as printed.

On clause 2, as follows:—

"The thirty-fifth section of the said Act is hereby repealed, and from and after the passing of this Act an alien shall not be entitled to be tried by jury *de medietate linguæ*, but shall be triable in the same manner as if he were a natural-born subject."

The HON. W. H. WALSH said he had no objection whatever to the Bill passing. He believed it would be an improvement on the present law, but he repeated what he had said on a former occasion, that owing to the loose way in which the existing statute was administered there were certain places where the jury list was composed of a majority of aliens. That statement was referred to by the Postmaster-General but was not contradicted by the hon. gentleman. He (Hon. Mr. Walsh) was not in a position at that moment to actually prove what he said; but he could tell hon. members that, having gone over the list of the Maryborough jurors, and having made every allowance where he was in any doubt as to whether a man was a foreigner or not, he found that over one-third of the jurors were foreigners. Whether they were naturalised or not he could not say; but he could say that he personally knew at least a hundred of them to be foreigners. That, he contended, was a state of things which ought not to exist. He believed, himself, that the Maryborough paper was correct in asserting that more than one-half of the names on the jury list were those of foreigners. He had not been able to ratify the statement from his own examination that day, but at any rate he had found that a little more than one-third of the names on the Maryborough jury list were those of foreigners, and he must confess that he had only put down such names as there could be no doubt about. He put it to the hon. gentleman in charge of the Bill, and he put it to the Postmaster-General, and to themselves as Englishmen and lovers of English institutions and English fair play, whether that was not the right moment to make such an addition to that Bill as should provide that an Englishman, even at Maryborough, should be tried by a jury of his own countrymen? He was asking nothing that was unfair, and he called upon hon. gentlemen of that Chamber to see that that was done. There was something to his mind not only obnoxious but terrible in the idea of one of his own countrymen being called upon to go into the dock, charged with offending a German, and the majority of the jurymen before whom he was to be tried being Germans. The fair play of Englishmen was proverbial all over the world, but there was no such character attributed to any other people in the world. He was not going to individualise the Germans or any other nation, as that character might belong to them, but they were not renowned for it. Here they were, after he had pointed the matter out to the Government, continuing a dangerous and un-English state of things. He knew there was no fairer man in the country than the Hon. Mr. Thynne, who was in charge of the Bill, and no one who would more quickly set his face against the idea of an English, Irish, or Scotch man being judged by any jury but a jury of his own countrymen. Yet he gave the hon. gentleman, and he gave the Postmaster-General, warning that on going over the official jury list of the town of Maryborough he found that more than one-third of the names on it were those of foreigners. He could mention at least 100 himself who were Germans. Many of them were his own servants, and, much as he regarded them, he said they were no more fit to try an Englishman than he was to go into the city of Pekin and try a Chinaman. Was there any waking them to a sense of their duty? Could they not move themselves in a spirit of English fair play to arrange those things differently? He told hon. gentlemen that the jury lists of the colony were in danger of being swamped by foreigners, and it would be futile, he could plainly see, in certain jury districts, for an Englishmen to bring a civil action especially, or to be defendant in a criminal action

against a German, where the preponderance of the jurymen, as in the case of Maryborough, were natives of that country. He could do no more than point the matter out in the most forcible manner he could. That Bill was not exactly prolonging the system, but it afforded an opportunity for the continuance of the mistake committed, and prevented equal justice being done to their own fellow-countrymen.

The HON. A. J. THYNNE said he had no doubt the hon. gentleman had been arguing under a misapprehension of the present state of the law. The 3rd section of the Jury Act of 1867 provided that no person who was not a natural-born or naturalised subject of the Queen should be on a jury. There was nothing to show that the gentlemen whose names the Hon. Mr. Walsh saw on the Maryborough jury list were not naturalised subjects of the Queen.

The HON. W. H. WALSH: Hear, hear! I did not say otherwise.

The HON. A. J. THYNNE said that whatever country they came from, having been naturalised—having given their allegiance to the Crown—they had all the rights and privileges that an Englishman had. He thought the discussion had no application to that section of the Act. The section was to provide that in future foreigners being tried in the courts here might not be entitled to the privilege of trial by a jury composed of one half British subjects and the other half aliens. He trusted the clause would be allowed to pass.

The HON. A. H. WILSON said he agreed with a great deal that the Hon. Mr. Walsh had said. In Maryborough he had seen the jury-box almost packed with foreigners, most of whom if one met them outside could scarcely be made to understand five English words in a hundred. He did not think it right that an Englishman should be tried by men who did not understand five words out of a hundred in the English language; there should be some clause introduced to prevent such men sitting on a jury.

The POSTMASTER-GENERAL: I would like to ask the hon. gentleman if he was an eye-witness of what he mentions?

The HON. A. H. WILSON: I have seen jurymen sitting in Maryborough who did not understand the English language at all.

The POSTMASTER-GENERAL: I would like to ask the hon. gentleman another question: Were the persons charged represented by counsel on that occasion?

The HON. A. H. WILSON: I am not prepared to answer a question like that.

The POSTMASTER-GENERAL said he had asked the questions because he could not credit the hon. gentleman's statement, or that any judge administering the law in Queensland would allow such a state of affairs to exist as the hon. gentleman had referred to. No person who could not understand the language used when a trial was going on was eligible to sit on the jury; and if the fact were brought under the notice of the court, the court could not allow such a state of affairs to exist; and if anything of the kind had occurred, the person charged with the offence, or the person defending him, had only himself to blame. It was not consonant with the spirit of the law, or with the law itself, that such a state of affairs should exist.

The HON. W. H. WALSH said the hon. Postmaster-General used very fascinating arguments. It was not consonant with the spirit of the law, the hon. gentleman had said, that such things should exist; but he might add it was not consonant with the spirit of English law that foreigners should try Englishmen, and yet they found they did try them. The Hon. Mr. Wilson was right when he said there were numbers of jurymen in the city of Maryborough who did not understand the English language. Only that very day he had seen the names of numbers of his own servants, of his own tenants—men who did not understand English—put upon the jury list. He could mention the names of numbers of those men who never would understand the English language, and yet they were put down as jurymen. Yet the Postmaster-General told them the exercise of justice would not allow such a thing! Where was the justice of their being put on the jury list? He could pick out 100 men on the Maryborough jury list who would no more understand what he was saying now or what the Postmaster-General had said than they would be able to understand Hindustani. Where was there the spirit of the law and the spirit of justice in that? Those men were thoroughly ignorant of the language, but the policeman had to collect the names for the jury list, and he went round to the settlers within five-and-twenty miles of the place and took their names, though he did not know whether they could speak English or not. Let him tell hon. gentlemen another thing to show how the spirit of the law was carried out; and he had sent to two or three friends concerning it, and had he known that that discussion would take place that evening he could have produced their names. There was not a copy of the jury list kept in Maryborough. He stated that officially, from actual information he had received. If a man went to Maryborough to-night or to-morrow night and demanded to see a copy of the Maryborough jury list, he would be referred to Brisbane. He went to the office in Brisbane to know why that was so, and the officer in charge showed him the list, but said he could not understand why it was not kept in Maryborough. Was that the spirit of justice meted out to Maryborough? He admitted that his statement the other night, when he said that more than half the men on the jury list at Maryborough were foreigners, had not been justified by his investigation; still a large number of the English names he saw on the list were those of men who had left the district for good, while the Germans remained, as they were more attached to the soil and were better citizens so far as the occupation of the land was concerned. He presumed, therefore, that the editor of the paper he had referred to knew of his own knowledge that many of the English jurors were absent from the district when it was stated that more than half of those on the jury list were foreigners. He (Hon. Mr. Walsh) distinctly stated that, after making the most careful allowance for all names at all doubtful, there were 180 Germans or other foreigners on the list. Such a state of things ought not to be; there ought not to be 180 Germans on the Maryborough jury list. They had no business to subject Englishmen—and when he said Englishmen, he meant persons born in England, Ireland, or Scotland—to the ignorance of foreigners, who, though they might not be intentionally unjust, and might be good men themselves, were yet ignorant of their habits and the administration of their laws. He contended that the Government should embrace that opportunity and check the further progress of the Bill, until they got all the information they could to enable them to put matters in a more English—in a more satisfactory condition.

The HON. J. C. HEUSSLER said he had not the slightest hesitation in agreeing with his hon. friend Mr. Walsh, that no persons should be allowed to sit upon a jury who did not under-

stand the English language; but how there could be more than one-half foreigners on the Maryborough jury list he could not understand. If such was the case there must be something wrong somewhere; because, although there were, he believed, more foreigners in and about Maryborough than in any other town of the colony, he was convinced that the numbers were not so great as to enable half the jury list to be composed of them. His hon. friend Mr. Walsh, ever since he had had a seat in that House, had always been upon the German scare. When he (Hon. Mr. Heussler) spoke upon these matters he used the word "foreigners"; and he held that it did not matter where people came from, if they could not speak English they should not be allowed to sit on juries in English courts. However, the great argument of the hon. gentleman had been very fairly met by the hon. the Postmaster-General; because an advocate had only to ask a juryman if he could understand English, and if he said he could not he would be struck off the list. As to the statement that the jury lists were crammed with foreigners, his experience was that every citizen who was not, for some reason or other, exempted from the list was bound to serve on juries, and consequently there must always be seven-eighths of Britishers on the lists. However, all foreigners, as had been forcibly pointed out by his hon. friend Mr. Thynne, were no longer foreigners as soon as they became naturalised. As soon as a Jew was baptised he became a Christian; whatever views of his old creed might be left with him, he was *de facto* a Christian; and as soon as a foreigner was naturalised in the colony he became a Queenslander. He was not a full Englishman; naturalisation did not give him all the rights of a born Englishman, but he was a full-blown colonist—with all the rights of a colonist—and to exclude them from juries would be very unfair play. The Hon. Mr. Walsh had pointed out very forcibly the love of fair play by the English, and no doubt there was an immense amount of fair play about the English; but he might point out that Englishmen had a very high opinion of themselves, and that other nations had also a love of fair play. For instance, it was quite impossible for a foreigner to hold any land or ships in an English community; but such a thing was not at all strange on the continent of Europe. There—he was not speaking of Germany at all, but of the continent of Europe—any person could acquire land; and if any of their rich squatters, such as the Hon. Mr. Walsh——

The HON. W. H. WALSH: What has that to do with the question?

The HON. J. C. HEUSSLER said the hon. gentleman had said a great deal about English fair play, and he was replying to him. He was pointing out that on the Continent, even persons who were not naturalised had a great many more rights than they had here. They could carry on any business they liked, purchase land and ships, without being naturalised; and he knew a great many Englishmen who had their beautiful villas on the Rhine who had not been naturalised. He could also tell his hon. friend that in his own native town he knew two very great institutions that were carried on by Englishmen.

The HON. W. H. WALSH: I suppose they must be, if great.

The HON. J. C. HEUSSLER: He supposed they were, because they had a good deal of arrogance about them; and they did business wherever they liked—just as his own countrymen had the pluck to go all over the world. The Hon. Mr. Walsh need not try to put him out in his remarks, because when he had anything to say he intended to say it, notwithstanding the interruptions of his hon. friend. He might mention to hon. gentlemen, and to the Hon. Mr. Walsh in particular, that in his native town the gasworks were carried on by a company of unnaturalised Englishmen, and the great tramway works were carried on by unnaturalised Belgians; and what did they see only a few days ago in the *Brisbane Courier*?—that a deputation from English working men had actually gone from London to agitate in Germany for the abolition of the bounty on sugar. He did not see where the fair play from England came in there. If a thousand unemployed foreign workmen came to Brisbane and tried to get up an agitation because our tariff did not conduce to their benefit, he would like to know what his hon. friend Mr. Walsh would say? He did not wish to speak against any real grievance that existed. If there was one, by all means do away with it; but when the hon. gentleman came in with his talk about great English fair play, which other countries did not possess, he (Hon. Mr. Heussler) felt called upon to tell a little of his knowledge. He could tell hon. gentlemen a most interesting anecdote concerning what once happened to himself, but he would not trouble the Committee with it. It was by no means a bad one.

HONOURABLE MEMBERS: Give it.

The HON. J. C. HEUSSLER: Well, about fifteen years ago, when he paid a visit to his native town—Frankfort-on-Main—he met an old friend, a lawyer, in the street, and he said—"How do you do, Heussler? I never can forget the pleasant days I spent with you in 1851 in the first Exhibition, and the many interesting things we saw there." They went into a beer-shop, and, in talking matters over, his friend said, "What a fine people the English are, only they are so arrogant; if they were not so arrogant, how much finer a nation they would be." He (Hon. Mr. Heussler) admitted that there was a great deal of arrogance about the English people, but said, "But we must not forget that they have really something to be arrogant about; I wish we Germans had as many great matters to boast of." The result was that his friend was convinced that he took the part of the English, as, in fact, he always did when he was not in their society. However, there was a gentleman sitting at the same table whom he had not observed, and all at once he looked at him (Hon. Mr. Heussler) rather cunningly, and said—"Allow me, sir, to tell you that you have given us English people a most excellent character—the truest character I have ever had the privilege of listening to. I will be most delighted to see you when you come my way." He then said his name was Warren Hastings. He handed him (Hon. Mr. Heussler) his card; and he afterwards ascertained that he had a villa at Stuttgard, and that he was a captain in the Austrian army, out of service. As he had said before, he quite agreed with the Hon. Mr. Walsh, that people who were really ignorant of English should not be allowed to sit as jurymen upon any case.

The HON. T. L. MURRAY-PRIOR said the hon. gentleman had given a good exemplification of what the Hon. Mr. Walsh meant. No hon. gentleman would wish to say a single word against foreigners who had been naturalised. The Hon. Mr. Heussler had made a long speech and told some anecdotes, but if he had been a witness and he (the Hon. Mr. Murray-Prior) a juror, he should not have been very well able to say what the hon. gentleman had been talking about. The hon. gentleman had been naturalised a very long time and must perfectly understand the English language; but if he could not be understood, how much less likely

was a foreigner, even of the calibre of the hon. gentleman, who had not been naturalised for so long a period—how much less likely was he to understand what was going on in a court of justice! He did not think a law should be passed to prevent naturalised foreigners from sitting on the jury, but their ability to understand what was going on ought to be ascertained before they were called on to serve.

The HON. J. C. HEUSSLER said he only spoke against the abuse which had fallen from the Hon. Mr. Walsh, for there were parts of the speech with which he agreed. It was not a nice thing, however, for the Hon. Mr. Murray-Prior to say that he could not understand him (Hon. Mr. Heussler). There must be some defect in his hearing. He believed himself, although he spoke with a foreign accent, which he never cared to leave off—though if he were to try his best he could do so—he believed that remark of the hon. gentleman might have been left unsaid. The Hon. Mr. Walsh spoke of the intelligence of foreigners; but he might point out that the bulk of the foreigners who arrived in Queensland had received a very good education, that trial by jury prevailed on the continent of Europe, and that the institution was just about the same there as in England. Far be it from him to say anything against the feelings of Englishmen. He was a naturalised Englishman, and, having lived forty years among them, more of an Englishman now than he was of anything else in his feelings, and perhaps a little of the Scotchman into the bargain.

The HON. K. I. O'DOHERTY said that by the 35th section of the old Jury Act provision was made for mixed juries; but the 2nd section of this Bill proposes to abolish that, and provide that all cases shall be tried in the same manner as if the persons tried were not foreigners. That was going from one extreme to the other. He thought that in a city like Brisbane it was only fair when a German was on his trial that one at least of his own countrymen should be on the jury. It might be impracticable to have half the jury composed of a man's countrymen, but it would be sufficient to have one on the jury who would be able to see that the case was fairly tried. It was a question of fair play in such a colony as Queensland, and he should like to see all nationalities, and especially the German nationality, represented on the jury if possible.

The HON. W. H. WALSH said there was no amendment before the Committee, and beyond speaking they were not advancing in any way. The matter had been very fairly debated; and it was the duty of the Government to urge upon the hon. gentleman in charge of the Bill to pause and allow the Government to consider whether they ought not to take it into consideration. He really did not know whether the Hon. Mr. Heussler was a representative of Germany or of Queensland in that Chamber. The hon. gentleman had chosen to allude to his abuse of Germany, but he was himself the greatest abuser of Germans in that House. If they were represented by an hon. gentleman who spoke good English they would find numbers of advocates and numbers of listeners; but when the hon. gentleman got up and talked of "my country," alluding to Germany, and "our country," alluding to the one to which he did not belong, it was time to protest. He (Hon. Mr. Walsh) did not abuse the Germans, but tried to defend them from the injury which the ignorance of the hon. gentleman had done them in that Chamber. He begged that the hon. gentleman would not, in an English community, and especially in an English branch of the Parliament, get up and tell an Englishman that he did not know his duties. He (Hon. Mr. Walsh) was not a foreigner, but an Englishman. He had a thorough knowledge of his duties, and was not going to be dictated to by a man who did not understand the attributes and virtues of the English Constitution. If the Bill did nothing more it would show that they were being too much governed by foreigners, and that they would have to protect even the jury from being flooded by them. In a certain electorate one-half of those on the electoral roll were foreigners, and one half of those again were not naturalised; and should he be doing his duty when aware of these facts by hiding them and keeping them in his bosom, and not on every occasion he possibly could proclaiming them and bringing them under the notice of his fellow-governors of the country? Would he be doing his duty if he did not expose them? No, he would not. He was an Englishman, and he would endeavour to do his duty as an Englishman and protect his country from the ignorance and innovations of foreigners.

The HON. A. J. THYNNE said they had had a long discussion on a matter which was in no way connected with the Bill. The discussion did not bear on the clause before the Committee at all. It was not proposed to deprive Englishmen of any of the rights or privileges they had had up to the present time. The only question raised by that clause was whether a foreigner should have the right to be tried by a jury composed of half aliens and half Englishmen? The Hon. Dr. O'Doherty had spoken of Germans, but he (Hon. Mr. Thynne) would not refer to any Continental nation, whether Germans, Italians, or Frenchmen. He would, however, point out to the hon. gentleman that a great difficulty would arise if a person had to to be tried by a jury of half Chinese and half British subjects. It would, in fact, be impossible to have justice administered under such circumstances. It was important that justice should not be interrupted by class or national prejudices, and it would be safer and better to adopt the provisions of the clause under consideration and entrust the trial of prisoners to intelligent juries of naturalised subjects. He did not think there was anything further he could add on that subject. He thought sufficient had been said to show the necessity of the clause.

The HON. J. TAYLOR said he wished to make a few remarks on the Bill. The hon. the Postmaster-General had stated that an Englishman, having a case before a jury of Germans, was perfectly safe, as the judge would protect him.

The POSTMASTER-GENERAL: I did not say anything of the sort.

The HON. J. TAYLOR said he understood the hon. gentleman to say that in such a case a man would be protected by the judge, and likewise by his counsel. He differed from that entirely. How often did they find juries going quite contrary to the judge's summing up, and also against the evidence? He would be very sorry to have a case tried before a jury composed of Germans, or one even in which half the members were Germans. He had employed a good many Germans in his time, some hundreds of them as labourers—he presumed those were the kind of men spoken of by Mr. Walsh—and he could safely say that, though they made good labourers and successful men as small freeholders, they were totally unfit to perform the duties of jurors. And how did Germans act in elections? Did they understand the political questions put before them? Did they vote for a candidate according to his worth or ability, or were they guided by one or two agitators? He believed they were guided by a few agitators, and that was how the country was being ruled at the present time. That was an important matter, and before long the "German vote," as it was called, would have to

be considered in a different manner to what it had been hitherto. He was glad the Hon. Mr. Walsh had brought the subject before the Committee.

The HON. G. KING said the remarks made by the Hon. Mr. Taylor and the Hon. Mr. Walsh did not in reality bear upon the clause before the Committee. The object of the clause was to repeal a right which at the present moment was possessed by all foreigners, called *de medietate linguæ*. That right allowed foreigners the option of being tried by a jury composed partly of their own countrymen. Then where did the complaint come in? It was now proposed, as he had said, to deprive foreigners of the right they had hitherto enjoyed by abolishing the jury *de medietate linguæ*. He thought that both the hon. gentlemen to whom he had referred had certainly not addressed themselves to the 2nd clause of the Bill which was before the Committee.

The HON. W. H. WALSH said he thought the Hon. Mr. King had misunderstood him. He (Hon. Mr. Walsh) stated distinctly that his remarks did not refer to the Bill under discussion, but he wished to point out to the Postmaster-General that what he considered to be a very grave question had arisen, and that it would be well to induce the hon. gentleman in charge of the Bill to postpone the further consideration of it until the new matter which had been suggested had received the attention of the Government. The Hon. Mr. King was wrong if he thought he (Hon. Mr. Walsh) was finding fault with the Bill. He was not doing that. He simply embraced the opportunity which that Bill gave him of pointing out that the circumstances at present connected with trial by jury in this colony were such as ought not to prevail in an English country; and he was trying as an Englishman to remedy the state of things he had described.

The HON. W. D. BOX said he agreed with the Hon. Mr. Walsh in what he had said respecting the right of Englishmen to be tried by Englishmen, and not simply by naturalised subjects who had been foreigners; and if the hon. gentleman could secure that by any means, he (Hon. Mr. Box) would certainly support him. It seemed to him that the clause under consideration was a step in the very opposite direction. If he understood it rightly, it took away from aliens the right which the present law gave them of having a certain portion of their own countrymen on a jury. In other words, it was proposed to take from aliens the very right which they contended Englishmen should have. Englishmen should be tried by their peers, and hon. members ought to uphold and maintain that right. Naturalised subjects, whether Germans or Italians, with few exceptions, did not understand the English language sufficiently to satisfactorily perform the duties of jurymen. They might understand it well enough to sell potatoes or buy a hoe or a horse, but with few exceptions the Germans in this country were not able to understand as the Hon. Mr. Heussler did, even such a clear explanation of the Land Bill as was given by the Postmaster-General. Naturalised subjects were excellent subjects in many ways, but they were not qualified to act as jurors. If the Hon. Mr. Walsh would propose some means by which they could insist that where Englishmen were plaintiffs or defendants the case should be tried by Englishmen he would support him.

The POSTMASTER-GENERAL said he must say something, after what had fallen from the Hon. Mr. Walsh and the Hon. Mr. Box. Hon. gentlemen had heard a great deal about English fair play that evening; but he would like to know what kind of fair play it was suggested they should show to aliens. It was proposed in that Bill to abolish the right of a foreigner to insist upon being tried by a mixed jury of foreigners and Englishmen. It was a fundamental principle of English law since the time of Magna Charta that an Englishman had a right to be tried by his peers, and in that Bill they were proposing to abolish the right as far as foreigners were concerned. It is, in effect, said—"We are honest men, and will act fairly by you. You may safely trust cases affecting your lives and your liberties to be tried by us." And while they said this it was suggested, in fact it was actually proposed by the laws of the colony, to invite persons born on foreign shores to become naturalised subjects, to swear allegiance to the British Crown, and thereby secure the rights and privileges of British subjects. After doing that they wanted to insist that none of those men should have a right to sit on a jury. He did not know that any of them cared to be on the jury. His observation was that people desired as far as possible to escape the performance of their duties in that respect; it was irksome and interfered with their business. The law, however, required that certain persons possessing the necessary qualifications should serve on the jury when the country demanded their assistance. If a man did not understand the English language colloquially, he should not sit on a jury. Persons not possessing that knowledge of the language were not competent to adjudicate on a case, and if such persons did sit on the jury it was not the fault of the law: it was the fault of the administration of the law, and that fault had arisen from those persons who had been interested, either as accused persons or as the friends of accused persons, not bringing the ignorance of the language on the part of those jurymen to the knowledge of the court. If it had been brought to the knowledge of the court no judge in the colony would have allowed them to be empannelled. No judge would allow any man not possessing a sufficient knowledge of the language to go on a jury to try a case, whether it was an important one or not; but he (the Postmaster-General) would never be a party either in the Government or out of it to introducing a provision debarring any naturalised British subject from being placed on the jury.

The HON. W. H. WALSH said he never supposed the Postmaster-General would be a party to any measure that would debar Germans from sitting on the juries; that was not the policy of the Government, nor was it the policy of the hon. gentleman. He stated that it was not the fault of the law, but of the administration of the law, if ignorant Germans or foreigners were placed on a jury. He (Hon. Mr. Walsh) submitted that a law which permitted ignorant men to go on a jury was defective and should be amended. Hon. members had nothing to do with the administration of the law, and it was no answer to the arguments which had been put forward to plead that the law was perfect and that the fault lay in its administration. It was a wrong system, and the very argument which the Postmaster-General used respecting the clause under discussion—that it was withdrawing from foreigners a right which they held, and which it was the pride of Englishmen to admit for hundreds of years—that they should have some of their own countrymen upon the jury—proved that it was a wrong system. It was un-English to do anything of the kind, and he was sorry to say it was colonial. It was debasing and un-English to propose anything of the sort. When foreigners came to England a certain proportion of foreigners were allowed to be on a jury

trying any of them, though they maintained the pride and independence of Englishmen; and yet the hon. member in charge of the Bill came there and asked him to agree to a wretched Bill like that, because they were to withhold from foreigners what had been the pride of Englishmen. That sort of argument had no sort of influence with him. He would give the foreigner all that he was entitled to, and take that which alone should be the possession of an Englishman. If they did that they would do their duty, and it was not by bringing any claptrap Bills like that before them, and by using such un-English arguments as they had heard that afternoon, that they should be turned aside from their duty. He said, let them do their duty; and if that Bill did not give fair play to the foreigner, he called upon every member of the Committee to reject it. Fair play and justice had been the pride and the very pearl in the diadem in the administration of the laws in England; and he said they should reject the Bill if it withheld from them one tittle of the rights awarded to foreigners in England. They were mere children in comparison with legislators in England in the power of forming statesmanlike opinions; and the very argument used, that the clause would deny the rights which foreigners should possess, was to him a sufficient inducement to urge upon hon. members to reject the Bill entirely.

The HON. J. TAYLOR said he wished to make two or three remarks upon the speech made by the Postmaster-General. The hon. gentleman said they induced Germans to come out here, and they then got them naturalised, or they became naturalised, and now they were about to refuse them justice in the shape of trial by jury. He denied that. In the first place, he would like to know why Germans came out here? He believed they were quite willing to come out themselves without any inducement, and that they came out here to get their living, and to get bread to eat. He would ask, what earthly good was naturalisation? Did the men, who became naturalised, understand one single syllable about it? Were they a bit more loyal after they were naturalised? He said they were not—they were still clannish, cliquish, and Germans. He looked upon naturalisation as the most ridiculous thing they could possibly imagine. He agreed with everything the Hon. Mr. Walsh had said, and he would support him whichever way he went in the matter.

Question—That clause 2, as read, stand part of the Bill—put, and the Committee divided:—

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The Hons. W. H. Walsh, T. L. Murray-Prior, W. Aplin, W. G. Power, J. C. Smyth, J. Taylor, W. Graham, W. F. Lambert, W. D. Box, and K. I. O'Doherty.

Question resolved in the affirmative.

On clause 3, as follows:—

"In cases where a female upon a capital conviction alleges or the court has otherwise reason to suppose that she is pregnant, no jury *de ventre inspiciendo* shall be empannelled or sworn, but the court shall direct that one or more medical men may be sworn to inquire whether she be with child of a quick child, and if after due inquiry he or they shall report that she is with child of a quick child, the court shall stay execution of the sentence until such female be delivered of a child, or until it is no longer possible in the course of nature that she shall be so delivered, and in such cases the expenses of such inquiry shall be paid by the Crown."

The HON. P. MACPHERSON said he did not see any necessity for the clause. He was not aware that any such jury as was referred to in the clause could be now empannelled, and he most decidedly objected to such rubbish being put upon their Statute-book. He objected to their Statute-book being polluted by such rubbish as that. In such a case as the Bill referred to, the Executive would interfere; and if such a case arose in England, the Home Secretary would interfere, and, he believed, had interfered before now. In the whole of his experience in the colony he did not think such a case had occurred, and it was trifling to introduce such legislation.

The HON. A. J. THYNNE said he was surprised to hear the remarks of his hon. friend, Mr. Macpherson, as he had always been under the impression that that principle of common law had remained amongst them. The practice in England was exactly what the Bill proposed to introduce into this colony; and he would like his hon. friend to point out where it was that the common law with regard to that particular clause of the Jury Act, had been abolished in this colony. He was not aware of it. The hon. gentleman in the Legislative Assembly who had introduced the Bill had given a very great deal of care to it, and it had also been under the consideration of the ablest legal men they had got in the colony. If the Hon. Mr. Macpherson could say where the principle had been abolished it would be a different thing; otherwise he could not see that it was by any means a pollution of their Statute-book. He did not see how such a charge as that could be made against the clause. He might say that the clause was introduced in the Bill for the purpose of assimilating their practice in the matter with the practice in force in Great Britain, and there was no other purpose or intention whatever in introducing it.

The HON. P. MACPHERSON said that laws could be repealed in two different ways—either directly or indirectly. Laws, which in themselves were absolutely absurd, became repealed by desuetude; and he asked could the hon. gentleman in charge of the Bill tell him from his reading, his observation, or his experience, when a jury of that kind last acted? He believed it was known as a "jury of matrons." Well, what rubbish!

The HON. K. I. O'DOHERTY said he quite agreed with the indignant expressions of his hon. friend Mr. Macpherson. All that statement about juries *de ventre inspiciendo*, and examination by women, was misplaced in the Bill; and he thought the clause should be worded so as to read:—

In cases where a female upon a capital conviction, alleges, or the court has otherwise reason to suppose that she is pregnant, the court shall direct that one or more medical men may be sworn to inquire, etc.

He considered that was a provision which was absolutely essential in cases of the kind contemplated by the clause, and was preferable in every respect to the antiquated system referred to by the Hon. Mr. Macpherson. The clause should, he thought, read as he had mentioned; and he thought the Committee would agree that that which was the law in other countries at present should be carried out here.

The HON. A. J. THYNNE said he would ask hon. gentlemen to agree to a slight modification of clause 3, by omitting the words, "No jury *de ventre inspiciendo* shall be empannelled or sworn, but."

The HON. P. MACPHERSON said he was satisfied with the amendment now proposed.

The POSTMASTER-GENERAL said he did not object to the excision of the words, but he thought the objection to them could not be characterised as other than a piece of squeamish sentiment. There was nothing indelicate or indecent in the expression, which was simply

one that lawyers had been in the habit of using, and which had been in existence from time immemorial, and no pointed reference had been made to it. He believed that nine hundred and ninty-nine persons out of every thousand who had read the debate knew nothing at all about it; and the Hon. Mr. Macpherson was entirely wrong in stating that it was a matter for the Executive. It was not a matter for the Executive at all. If a woman, under the circumstances, stated that she believed she was pregnant, as the law now stood the judge was bound on that statement to refer the matter to a jury of matrons in the manner which had been referred to. Now it was proposed to substitute a more reasonable and satisfactory form of procedure in such cases. Medical science had very much advanced since the days when the practice was first introduced.

The HON. P. MACPHERSON said he objected to the statement that he was entirely wrong. He would ask his hon. friend to give a single instance in which a jury of matrons had been empannelled within his knowledge. He was aware that Judge Hale, in his "Pleas of the Crown," said that a judge must direct a jury of twelve matrons to inquire into the facts of such cases; but, as his hon. friend knew, that book was published in 1730. That eminent judge died, he believed, in 1676; and he was the famous judge who sentenced two women to death for witchcraft. He did not believe that there had been a single instance under the English law for the last one hundred years, where a jury of that kind had been empannelled.

The POSTMASTER-GENERAL said he could not quote an instance, because, fortunately for them, they very seldom had women put on trial for murder, and as far as his experience went, ever since he had been capable of forming an opinion about matters of that kind, no woman who had been found guilty of murder had put in such a plea. He had, however, stated what the law was, and in support of it he should quote from an authority that was undeniable—"Blackstone's Commentaries," as edited by Stephens, 1858, in which it was stated:—

"Reprieves may also be *ex necessitate legis;* as, where a woman is capitally convicted, and pleads her pregnancy: though this is no cause to stay the judgment, yet it is to respite the execution till she has delivered. This is a mercy dictated by the law of nature, *in favorem frolis.*

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"In case this plea be made in stay of execution, they must direct a jury of twelve matrons or discreet women to inquire the fact; and if they bring in their verdict 'quick with child' (for barely 'with child,' unless it be alive in the womb, is not sufficient), execution shall be stayed generally till the next session; and so from session to session, till she is either delivered, or proves by the course of nature not to have been with child at all."

That was a statement of the law as existing in 1858; he could not find that it had been repealed at home, and it certainly had not been repealed in Queensland. There was, therefore, no discretion left to the judge. He was bound, if a plea of that kind was put in, to direct a jury of the class mentioned to determine the question, which he thought was very undesirable under existing circumstances.

The HON. P. MACPHERSON said he must again answer his hon. friend. It was clear that if no jury of the kind mentioned had been empannelled for so long a period the provision had fallen into desuetude, and it was absurd to retain any reference to it on our Statute-book.

The HON. W. H. WALSH said that the observations of the Postmaster-General went to show the absolute necessity for empannelling such a jury. The hon. gentleman now informed him that it was intended to correct the state of the law—to assimilate it to other statutes. To assimilate it to what? To the Contagious Diseases Act. That was the debasing spirit of the age; and he thought they had better adhere to the old state of the law, for the less a man had to do with matters of that kind the better. He must say, however, that he could not conceive of any more congenial employment for some people than that of acting as a committee of old women to determine the state of an Englishwoman on her trial for murder. He did not like those alterations in their laws; and when flippantly introduced by amateur politicians, they should regard them with very grave suspicion, especially when they had a confiding Government which chose to abdicate its duties in matters of that kind. It used to be said by a colleague of the Postmaster-General's, a gentleman who was regarded as the "Joe Hume" of the House—the expression was stereotyped and used annually—"This is the most extravagant Government the colony ever had." And he (Hon. W. H. Walsh) now said that the present Government was the most extravagant he ever knew in the way of permitting private members to take upon themselves responsibilities which should belong to the Government alone.

The HON. A. J. THYNNE said he thought the Hon. Mr. Macpherson was in error when he said no case of the kind had occurred for the last hundred years, for he was informed on good authority that such a case arose about eleven years ago, at the Old Bailey, in London.

Question—That the words proposed to be omitted stand part of the clause—put and negatived.

Clause, as amended, put and passed

Clause 4—"Certain persons exempted"—passed with a verbal amendment.

On clause 5, as follows:—

"Jurors, after having been sworn, may, in the discretion of the court, be allowed, at any time before giving their verdict, the use of a fire when out of court, and be allowed reasonable refreshment."

The HON. W. H. WALSH said the clause was beneath their notice, and should be treated with the contempt it deserved. If the jury did what the court wished, they would be allowed a fire; and if they did a little extra as the court wished, they were to be allowed refreshments. To what were they degenerating? It was far better that juries should starve, than that they should be allowed comforts according to the manner in which they comported themselves.

Clause put, and the Committee divided:—

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The Hons. W. D. Box, J. Taylor, and W. H. Walsh.

Question resolved in the negative.

On clause 6, as follows:—

"It shall be lawful for the court before whom any person may be summoned as a juror to discharge in open court such person from further attendance at such court, or to excuse such person from attendance for any period during the sittings of such court."

The HON. W. H. WALSH said he still thought there was an omission in the Bill that might be very detrimental to jurors. He saw no provision made for smoking, which was an English institution. Did reasonable refreshment include that?

The HON. A. J. THYNNE: That is in clause 5.

The HON. W. H. WALSH said he dared say that it might be included in the obscure language of the clause. He merely wanted to see that smokers would be attended to, and under the provisions of clause 5.

Clause put and passed.

Clause 7—"Short title"—and preamble, passed as printed.

On the motion of the HON. A. J. THYNNE, the CHAIRMAN left the chair and reported the Bill to the House, with amendments; and it was then recommitted for the reconsideration of clause 1.

The HON. A. J. THYNNE said there was a clerical error, or something like a clerical error, in the 1st line of clause 1, where the words "the said Act" came in. As the Bill was originally introduced the principal Act was quoted in previous clauses, but by their omission the references to the principal Act had also been omitted. He now moved that the words "said Act" be omitted, with the view of inserting the words "the Jury Act of 1867."

Amendment agreed to; and clause, as amended, put and passed.

On the motion of the HON. A. J. THYNNE, the CHAIRMAN left the chair, and reported the Bill to the House with a further amendment. The report was adopted, and the third reading made an Order of the Day for to-morrow.

CROWN LANDS BILL—COMMITTEE.

On the motion of the POSTMASTER-GENERAL, the President left the chair, and the House resolved itself into a Committee of the Whole for the purpose of considering this Bill in detail.

Clauses 1 and 2—"Division of Act" and "Short title"—passed as printed.

On clause 3, as follows:—

"This Act, except when otherwise expressly provided, commences and takes effect on and after the first day of March, one thousand eight hundred and eighty-five, which date is hereinafter referred to as the commencement of this Act."

The HON. W. D. BOX said he would like to know from the hon. gentleman in charge of the Bill whether he was satisfied that the 1st of March, the date on which the Bill was to come into operation, would allow sufficient time for the necessary arrangements to be made. He (Hon. Mr. Box) did not suppose, when the Bill was first introduced in the other House, that it was contemplated that there would be such a long discussion on the measure, and judging by the speeches which had been made on the second reading in that Chamber, he thought it was quite possible several amendments would be made. Those would have to be considered in another place, and, even if adopted there at once, that would cause some delay. The 1st day of March was only two months from the 1st of January. That was a very short notice to give people of the Act coming into operation. He would like to hear the opinion of other hon. members on that question.

The POSTMASTER-GENERAL said he hoped the hon. gentleman's prognostications, or perhaps his wishes with regard to the transformation of the Bill would not be realised. It was only very recently that the Legislative Assembly introduced the words "the first day of March." If the Committee found that the amendments introduced into the Bill by the Council were of such a character that they would cause a very prolonged discussion to take place before the Bill could become law, it would then be competent for the Committee to substitute some other date for the "first of March." In the meantime, he thought that if the Bill were carefully considered, as he had no doubt it would be, there would be ample time, after it had been before the Legislative Assembly, for the Government to make the necessary preparations to bring the Bill into full operation by the 1st of March.

The HON. J. TAYLOR said he thought the time was far too short, and would move, as an amendment, that the clause be postponed until the other clauses of the Bill had been passed.

The POSTMASTER-GENERAL: I will consent to recommit the Bill if it is necessary.

The HON. J. TAYLOR said he thought they should be firm in the matter. The hon. gentleman might be very ill when that clause should come on, and as the Hon. Mr. Walsh was not in favour of the Bill, he would not take it up, and it might collapse altogether. He moved that the clause be postponed until after the passing of the other clauses of the Bill.

The POSTMASTER-GENERAL said it would be much better for the Committee to accept his assurance. He was the representative of the Government, and the Government would not repudiate his action. The hon. gentleman might accept his assurance as representative of the Government when he said he would have that clause recommitted if it was found necessary.

The HON. J. TAYLOR: I will accept the hon. gentleman's assurance, and I beg leave to withdraw my amendment.

Amendment withdrawn; and clause passed as printed.

On clause 4—"Interpretation"—

The HON. A. C. GREGORY said he would draw attention to that part of the clause defining a "holding." It ran thus—

"'Holding'—Land held by any lessee."

In the Bill there were several clauses referring to holdings by licensees as well as by lessees, and he would suggest that the interpretation of "holding" should read—"The land held by any licensee under Part IV. of this Act, or by any lessee."

The POSTMASTER-GENERAL: There are no licensees under Part IV.

The HON. A. J. THYNNE: Yes, there are; under clause 52.

The HON. A. C. GREGORY said it was also referred to in clause 54, which said—"During the currency of the license," etc.—as well as in clause 52, which provided for a license being issued after certain preliminary conditions were fulfilled. It was simply a matter of improving the interpretation of the word "holding."

The POSTMASTER-GENERAL said he was not inclined to accept the suggestion of the hon. gentleman, because the word "holding" had a significance apart from land held under license. In Part IV. a license was only a temporary authority to occupy a piece of land subject to the performance of certain conditions. When those conditions were performed the licensee could convert himself into a lessee. Then he had a holding for a certain time; but if he did not perform the conditions, he would have no rights whatever. Under a subsequent part of the Act, it was not contemplated that licensees should have the same privileges as lessees without the performance of the conditions, and that was why the word "licensee" had not been inserted in the interpretation of "holding." They could hardly call occupation licenses under Part VI. "holdings," and it was that part he had in contemplation when he said there were no licenses under Part IV. The licenses under Part VI. gave a right to occupy from year to year with the power on the part of the Governor

in Council to resume the land. It was not intended under that part to give such privileges as those given to lessees holding the land for a long period. Take the provisions with regard to compensation, and suppose in the case of lands held under Part VI. from year to year, the Government said they wished to resume that land; if the amendment the hon. gentleman proposed was adopted, the occupiers would be able to say, "We have got holdings, because, in your definition of the word 'holding,' you say that it means land held by any licensee, therefore every piece of land we are holding under a license is a holding, and we therefore claim compensation under this Bill, under Part IX., by which the Governor in Council may resume land under the Act."

The HON. A. C. GREGORY said he proposed to limit the meaning to licenses under Part IV., which referred to agricultural and grazing farms. He thought the hon. member, if he would look at Part IV., would see that the licenses under that part of the Bill were simply leases in embryo, and there was no reason whatever why they should not be considered as holdings. It was only his intention by the amendment he proposed to restrict its operations to licenses under Part IV. of the Bill.

The HON. A. J. THYNNE said he would call the attention of the Postmaster-General to another part of the Bill in which the word "holding" occurred—that was in clause 12, relating to the disabilities of members of the board—where it said that a member of the board should not be allowed to acquire a "holding." If what the Postmaster-General had stated was correct, there would be nothing to prevent a member of the board acquiring land under an occupation license, because according to the hon. gentleman that would not be a holding. Licenses were to be issued under Part IV. of the Bill, and he agreed with the amendment proposed by the Hon. Mr. Gregory that the meaning of the word "holding" should be extended to those licenses.

The POSTMASTER-GENERAL said the whole scheme of the Bill was that no land should become a holding until a lease was actually granted for it. If hon. gentlemen would turn to Part IX., with regard to resumption and compensation, they would see that clause 105 said, "The whole or any part of any holding under this Act may be resumed from lease by the Governor in Council." The same thing was kept in view throughout the whole of the statute. A piece of land did not become a holding until the lease issued for it; and the leases did not issue in the case of lands taken up under Part IV. until certain conditions had been fulfilled. They were occupation licenses, which would merge into leases subsequently. With regard to clause 12, to which the Hon. Mr. Thynne had referred, the objection which he had raised could be better provided for by adding, in addition to the stipulations therein mentioned, that the members of the board should not become licensees under the Bill. He would not object to an addition of that kind, but he did object to a licensee having all the privileges to be conferred upon a person absolutely becoming a lessee under Part IV.

The HON. A. J. THYNNE said he did not think the hon. gentleman had made a more damaging speech upon the Bill than that he had just delivered. Were they to understand the hon. gentleman that men who took up agricultural and grazing farms were not to have the rights of lessees, and were liable to have their holdings taken from them at any time within three years after they were taken up, without any compensation whatever? If that were so the Bill condemned itself very strongly. He would support the amendment of the Hon. Mr. Gregory, because it would provide that the people who took up grazing farms or agricultural farms should from the first have the privileges which ought to be granted to leaseholders. He did not see how it could be considered in accordance with justice that those men who took up selections, and spent all they had to get upon them, should be liable to be turned out by the Government at any time within three years, or before their leases were issued.

The POSTMASTER-GENERAL said there was no power to resume from licenses, but power was given to resume from leases. If any hon. gentleman would read clause 105, he would see that the Government had not the power to resume from land held under licenses. It only gave them the power to resume "the whole or any part of any holding." That, according to the definition, did not apply to a piece of land held under a license; so that the Bill went a great deal further than the hon. gentleman imagined. There was no desire on the part of the Government to resume land held under a license, or any improvements which might have been made upon it. They did not ask power to resume from licensees at all—only from lessees.

The HON. A. J. THYNNE asked if he had distinctly understood the hon. gentleman to state distinctly in the House that the Government had not the power to resume from the licensee? It seemed to him the hon. gentleman carried his argument too far, and he would like that the hon. gentleman would consider the argument he had used.

The POSTMASTER-GENERAL said it was perfectly clear under the definition of a holding. It referred to land held by a lessee, and in Part IX. the Government were only entitled to resume "the whole or any part of any holding under this Act." That was to say, they were only entitled to resume land held under lease. Land held under license was not land held under lease; and under Part IV. the lease was not issued until certain conditions had been fulfilled, and it was not competent for the Government, therefore, to resume that land until the lease had been issued. It was not likely that the Government would not be able to forecast for a period of three years their requirements with regard to a particular piece of land. If they could not do so, and it became necessary to resume it subsequently, it could only be done by a special arrangement between the licensee and the Crown.

The HON. J. TAYLOR said, if he understood the Postmaster-General aright, the Government could resume from the fifteen years' squatters at once, as well as from the thirty years' men and from the fifty years' men after they had got their leases.

The POSTMASTER-GENERAL: The Governor in Council can resume on the recommendation of the board.

The HON. J. TAYLOR: But not land held under licenses?

The POSTMASTER-GENERAL: No; not under licenses.

The HON. A. C. GREGORY said he certainly did not anticipate that the amendment he had proposed would have raised the discussion it did. It appeared, from what the Postmaster-General said first of all, that the licensee had no rights at all. That had been stated by the Postmaster-General.

The POSTMASTER-GENERAL: I did not say anything of the sort.

The HON. A. C. GREGORY said the second view the hon. gentleman took of the matter was that the licensee's rights were very much more stable than those of the lessee. For his own part he looked upon the matter as one that would not in the slightest degree affect the Bill; and the object was to make the intention of the Bill more clear. It appeared to be one of those small omissions that had been accidentally overlooked.

The HON. W. D. BOX said he contemplated moving an amendment in a previous portion of the clause under discussion. He wished to elicit from the Committee an expression of opinion as to the area to be fixed for "suburban lands." According to the clause they were defined to mean "all Crown lands within a distance of two miles in a straight line from any Crown lands." Well, from their experience of the cities and towns of any importance in the colony, it seemed to him that the chances which a man should have under the Bill of obtaining freehold suburban land ought to be extended to a greater distance than two miles from town lands. Clause 82 provided that suburban lands within a mile from town lands should be sold in lots of from one to five acres, and over a mile from town lands in lots of from one to ten acres; and clause 84 fixed the price. He supposed there was some reason for fixing the limit at two miles, but it seemed to him that from the way in which cities and towns grew up in Australia the area of suburban lands should be extended to a greater distance than that; and, unless the hon. gentleman in charge of the Bill had some sufficient reason why "two miles" should be retained, he should move that the area be extended to five miles. He was only desirous of improving the Bill from his view of it.

The POSTMASTER-GENERAL said the distance mentioned—two miles—had invariably been used in all previous Crown Lands Alienation Acts, and he supposed that was the reason why that limit had been fixed in the Bill. That was the limit fixed in the Acts of 1868 and 1876; and certainly the hon. gentleman had given no reason to induce the House to vary the rule that had been retained in all previous Acts.

The HON. A. J. THYNNE said he did not think the Hon. Mr. Box realised what would be the full effect of his amendment. If one town allotment were proclaimed in any part of the district the suburban lands would extend ten miles on each side, so that they would have a square of 100 miles, which would be a much larger area than would be required in any part of the colony. That was even if one town allotment was proclaimed.

The POSTMASTER-GENERAL: And that would not include the area of the town.

The HON. A. J. THYNNE: If the area of the town was included, it would, of course, make the extent of suburban land still larger.

The HON. A. C. GREGORY said, from a practical knowledge of the expression "two miles," he saw no objection to it. It had been the law theretofore, and no difficulty had arisen from it. Besides that the provision in the Bill actually went to a somewhat greater extent than previous Acts, because under those Acts practically no lands became town lands unless they were proclaimed open to sale by auction; whereas, by the Bill additional power was given to proclaim town lands as well as town blocks. The suggested amendment would increase the extent of suburban lands considerably, and he did not see any necessity for it.

The HON. W. D. BOX said he was quite satisfied with the explanation that had been given.

The HON. A. J. THYNNE said there was another important matter under the head of "improvements" that required attention. Heretofore they had always been accustomed to regard anything in the shape of cultivation as improvement, and he did not know upon what principle, or for what reason, the word "cultivation" had been excised from the Bill. He noticed, in going through the clause, that two things, which they generally regarded as improvements, were omitted—cultivation and ringbarking. Ringbarking, however, was provided for in clause 113; but there was nothing whatever to encourage the agricultural selector to make improvements by way of cultivation. That was a very serious change from what had hitherto been the custom, and he did not see why it should be made unless there were some grave reasons for it.

The POSTMASTER-GENERAL said the hon. gentleman was quite wrong in saying that there was no provision in the Bill with regard to cultivation. He surely could not have read the clause, because it provided amongst other things for gardens and plantations being considered as improvements, and he certainly thought that was comprehensive enough. Ringbarking was specially dealt with in a subsequent part of the Bill for reasons which would be explained when that clause came before the Committee.

The HON. A. J. THYNNE said the word "gardens" was generally used in a limited sense. "Plantations" was also used in a somewhat limited sense, although perhaps it might not be used in that way so far as sugar plantations were concerned. However, he proposed that the clause be amended by inserting the word "cultivation" after "plantation." That would remove any difficulty or hair-splitting which might arise afterwards when those matters came before the board to be dealt with.

The HON. A. C. GREGORY said he did not think there could be any objection to the amendment, because, although "garden" and "plantation" both meant cultivation, "cultivation" was not a plantation or garden; and unless it was intended to exclude "cultivation," such as ploughing or planting maize, or growing wheat, he thought no harm could arise from the introduction of the word. It would certainly make the clause more distinct. It was not a question of vexatious opposition to the Bill, but hon. gentlemen were simply anxious to make the Bill work, and he trusted the hon. the Postmaster-General would accept the amendment in the way in which it had been moved.

The HON. W. GRAHAM said: If "cultivation" were inserted they might omit the words "garden" and "plantation," because "cultivation" was greater than and would include the others. As the clause very carefully mentioned all different items that should be considered improvements, he thought there could be no objection to inserting "cultivation." Because it was a very serious item—a bigger item than either "plantation" or "garden."

The HON. J. TAYLOR said he was certain that as the Postmaster-General represented a Government which was supposed to be the Government of the poorer classes—agriculturists, and so on—he would be very pleased that the opportunity had been given of inserting "cultivation," and that he would agree to it without further hesitation.

The POSTMASTER-GENERAL: We do not profess to represent any class. We profess to represent the colony.

Question — That the word proposed to be inserted be so inserted—put and passed.

The HON. A. J. THYNNE moved, as a consequential amendment, that the word "other," before "building," be omitted. As the clause had been amended it would read very clumsily unless "other" were omitted, because "cultivation" could not be referred to as "any other building."

The POSTMASTER-GENERAL said the word "other" was perfectly correct and appropriate. Its meaning was not restricted to the word immediately preceding it, but was applicable to the whole context.

The HON. A. C. GREGORY said it was a verbal amendment, not so much in regard to any imperfection in the Bill as originally introduced; but having introduced the word "cultivation," which was such an unstructural sort of thing, they might strike out the word "other," to make the clause complete.

The POSTMASTER-GENERAL said the omission of the word would make it incomplete, as the hon. gentleman would see if he would look at the whole clause, and not confine his attention to the three words preceding the word "other."

The HON. W. GRAHAM said he differed from the Postmaster-General. It was a mere question of verbiage, and the word "other" was not necessary. He should like to know from the hon. gentleman whether the omission of the word would weaken the clause in any way?

Amendment agreed to; and clause, as amended, put and passed.

On clause 5, as follows:—

"The third and fourth parts of this Act extend and apply to—

1. The part of the colony described in the first schedule to this Act;
2. Any other parts of the colony to which the Governor in Council, on the recommendation of the board, from time to time, by proclamation, extends the provisions of those parts of this Act;
3. The land comprised in any run the pastoral tenant whereof makes application to the Minister to bring such run under the operation of Part III. of this Act.

"The remainder of this Act extends to the whole colony."

The HON. A. C. GREGORY said the clause involved a very important question. It was probable—not merely possible—that before they had finally disposed of the Bill the schedule would be modified either by partly or wholly extending it beyond the limits now set forth; and it would be better to defer the question of its precise extent till they dealt with the schedule itself. If they extended that, clause 5 would be recommitted as a matter of form. He therefore considered it desirable to draw attention to the extreme probability of the schedule being extended, in order that hon. members might not be taken by surprise.

The HON. W. D. BOX said that hitherto leases had been held till the lands were resumed by the action of both Houses of Parliament.

The POSTMASTER-GENERAL: Certainly not.

The HON. W. D. BOX accepted the correction. He thought, however, that the clause gave the Governor in Council power to make the Act apply to the whole colony. Any pastoral tenant could bring his run under the operation of the Act; and from his point of view it would be better at once to make the Bill apply to the whole colony.

The HON. T. L. MURRAY-PRIOR said he thought the Hon. Mr. Box had not followed the remarks of the Hon. Mr. Gregory. The schedule would give rise to a great deal of discussion, and if it should be altered in any way it would be imperative to recommit the Bill for the purpose of altering clause 5. It would, therefore, be better to defer speaking on the subject till the schedule itself came on for consideration.

The POSTMASTER-GENERAL said that from the remarks of the Hon. Mr. Gregory, who spoke in the plural, he must regard the hon. gentleman as the exponent of the views held by hon. members opposite. He thought at the time that he was carrying the consciences of other hon. gentlemen in his pocket, but he was glad to find that such was not the case so far as the Hon. Mr. Box was concerned. If the majority opposite had come to any decision in regard to the extension of the schedule it would be much more satisfactory to announce that decision at once. For the enlightenment of the Hon. Mr. Box he might point out the reason for restricting the operation of the statute to the area prescribed by the schedule. It was anticipated that the area contained therein was the area within which, for many years to come, settlement would be concentrated. Therefore, the Government decided, and the Legislative Assembly confirmed their decision by an overwhelming majority, that it would be undesirable to interfere with the tenure of the pastoral tenants in the districts outside the schedule unless those tenants themselves were anxious to bring their runs under the provisions of the Act. The pastoral tenants might prefer to have their runs under the existing tenure, and although that might be regarded to a certain extent as an eight months' tenure, they might be satisfied that they would not be interfered with until the end of their term. The Bill, therefore, reserved to them the privilege of remaining under the existing state of affairs, but when settlement approached towards their holdings they would probably say, "We wish to have our runs brought under the provisions of this Act; we claim the advantages of the Act;" and in that case they would get an absolute tenure for one-half of their run, and the other half would be resumed for the purposes of settlement. He might also enlighten the hon. gentleman on another point. The hon. gentleman seemed to be under the impression that under the present law it was necessary to obtain the consent of both Houses of Parliament before any resumption could be made from a run, but that was not the case. Under the 55th section of the Pastoral Leases Act of 1869, the Governor in Council on his own motion, without applying to Parliament at all, could resume 2,560 acres, and he had power also to give six months' notice of the resumption of the whole or part of a run; after that six months had expired he would lay a schedule of the proposed resumption on the table of both Houses, and if the notice was not dissented from by both Houses of Parliament within two months, it would then take effect. That was the reason some people contended that the lessees held their runs under a six months' tenure. If the majority of the Committee had made up their minds that the Bill should extend to the whole colony, let them enunciate their opinions now, and not defer them until they came to the discussion of the schedule. The present was the appropriate time to discuss the matter.

The HON. W. H. WALSH said he did not intend to say anything on the Bill during its passage through that Chamber, but he must protest against the Postmaster-General telling the Committee that certain views and certain portions of that Bill had been accepted by a very large majority of the members of the other Chamber. He (Hon. Mr. Walsh) objected to that manner of carrying on their deliberations. The Committee were not to be threatened. He implored his hon. friend, when he addressed the

Committee on any proposition in the Bill, to do so without telling them what had been the action of the representatives of the people in another Chamber. They were not to be guided or threatened in that way, and he protested against it entirely.

The HON. W. GRAHAM said it was an open question whether they should discuss the point as to whether the Bill should extend to the whole of the colony at that stage, or when they came to the schedule. The Postmaster-General thought the proper time was the present, and he (Hon. Mr. Graham) could quite understand the feelings of the hon. gentleman in saying so. He (Hon. Mr. Graham) had not the slightest doubt that the Postmaster-General would like very much to know what was the consensus of opinion of members sitting on that side of the House, and in all probability, if he did know, it would be a very good and safe guide to him in his after conduct of the Bill. He (Hon. Mr. Graham) was indifferent himself as to which plan was adopted; probably he should not vote either way, because he was personally interested in not having the schedule extended beyond the boundary at present proposed. At the same time he was very doubtful whether it would not be to his interest to have it extended. He was perfectly indifferent in the matter, and probably would not record any vote on the subject. He thought the best way to look at it was from the point of view taken by the Postmaster-General. It was the requirements of the country for settlement that had been considered in former years, and he thought in that instance also they should be guided by what they considered to be the actual requirements of the country for the same purpose. He did think, for the credit of the people outside, it would not be good or sound policy to force more people than it was actually necessary to do in the interests of the country as far as settlement was concerned, to go and explain their position to their bankers. He thought that the land provided by the schedule was amply sufficient.

The HON. W. D. BOX said he should like to take that opportunity to inform the Postmaster-General that the opinion he had expressed was simply his own opinion. He did not know what was the feeling of the House on the matter. He could not understand why one part of the colony should be treated in a different way from another part, and that was his reason for addressing the Committee.

The HON. A. C. GREGORY said the Postmaster-General had pointed out that it would be highly inconvenient for them to postpone dealing with that question until the schedule came on for consideration, and, no doubt, as a pure matter of form, some inconvenience might arise. On the other hand, it would be far more inconvenient if they were hurriedly to extend the schedule to the whole colony before they knew what the Bill would actually be when they arrived at the schedule. It might be so modified in its form as to make a very great difference as to the policy of extending the schedule or otherwise; and as to the inconvenience in form, there could be no practical difficulty on that score, as it would be a very simple matter to recommit the Bill to amend clause 5. If the Bill were extended to the whole of the colony then they would have to amend the 1st line by adding "to the whole colony"; but should that not be determined upon, and it was only extended to a part of the colony, it might not be necessary to recommit the Bill. Under those circumstances he thought the Postmaster-General would see that they were acting in a temperate manner in not rushing the matter through; and that it was better to leave the consideration of the question until they came to the schedule. The matter should be dealt with in the interests of the country, and not in the interests of any party.

Question put and passed.

On clause 6, as follows:—

"1. It shall not be lawful for the Governor in Council to sell any portion of a run to a pastoral tenant under the provisions of the fifty-fourth section of the Pastoral Leases Act of 1869 except for the purpose of securing permanent improvements actually made upon the portion so sold, and consisting of permanent buildings, reservoirs, wells, dams, or fencing; nor unless the following conditions exist and are performed respectively, that is to say—

(*a*) The improvements must have been made before the passing of this Act;

(*b*) A sum not less than one thousand two hundred and eighty pounds must have been actually expended upon the improvements;

(*c*) The land applied for must not comprise any natural permanent water, nor must it, except when the improvements consist of a reservoir or dam, comprise more than one side of a watercourse;

(*d*) Application to purchase the land must be made to the Minister within six months after the passing of this Act, accompanied with particulars of the improvements, and proof of the time when they were made, and of the money expended upon them.

"2. Upon application duly made and proof given within the period aforesaid, the application shall be approved and recorded, and the pastoral tenant shall thereupon be entitled to purchase the land comprised in the application on payment of the sum of ten shillings per acre at any time before the land applied for has by resumption or otherwise been withdrawn from, or ceased to be subject to the lease.

"3. Provided that any pastoral tenant of a run who takes advantage of the third part of this Act in respect of such run shall not be entitled to purchase under the provisions of this section any land comprised in such run.

"4. For the purpose of giving effect to the foregoing provisions of this section and of performing any contract heretofore lawfully made by the Governor in Council for the sale of a portion of a run, the said fifty-fourth section of the Pastoral Leases Act of 1869 shall continue in force.

"5. Except as aforesaid the said fifty-fourth section is hereby repealed.

"6. This section takes effect from the passing of this Act."

The HON. T. L. MURRAY-PRIOR said he spoke very warmly on that clause on the second reading of the Bill. The pre-emptive right question was then explained to hon. members very fully by the Postmaster-General from a legal point of view. He hoped before he sat down that he would be able to refute the arguments of the hon. gentleman, who referred to the 54th clause of the Pastoral Leases Act of 1869, and tried to make it appear that the power to grant pre-emptions was a permissive power that the Governor in Council might exercise upon certain improvements being made by the lessee. He (Hon. Mr. Murray-Prior) was hardly able to follow the legal arguments of the hon. gentleman, but he believed he could show that morally the proposition now made was wrong, as it had always been the custom to give pre-emptions to those who paid for them. That had been clearly shown by the Hon. Mr. Taylor, who was Minister for Lands when the Act of 1869 was passed. The hon. gentleman stated that the Government of the day were only too glad to obtain what money they could to replenish the Treasury in 1869; that their fear was that sufficient money would not be forthcoming, and they consequently gave every inducement to gentlemen holding runs to exercise their pre-emptive rights. Speaking of the 54th clause, when it was before the Legislative Assembly, the Hon. Mr. Taylor said:—

"He thought that was a kind of pre-emption that was liberal, and should be acceptable to all parties. He

recollected that the Darling Downs members at one time were very much abused because they would not concede to the northern and outside squatters the right of pre-emption. He must say that he did not see the use of such a right to the squatters in the outside districts, for there was not the remotest chance of their runs being interfered with for very many years to come. However, this clause gave the right of pre-emption, and though it said only 2,560 acres he had no doubt the quantity might be extended."

He did not think that any Minister in giving an explanation on the second reading of a Bill could more forcibly have given reason to the lessees to think that they had an indisputable pre-emptive right. The hon. Postmaster-General said that in reading an Act he took the context of that Act to show what the framers of the Act intended. He joined issue with the hon. gentleman there.

The POSTMASTER-GENERAL: I did not say that.

The HON. T. L. MURRAY-PRIOR said in his experience, and he believed it had been the experience of many hon. gentlemen who had brought Acts before Parliament, when a legal interpretation had been given of an Act it had been found quite opposed to the intentions of the framers of the Act. He thought the Postmaster-General would allow that.

The POSTMASTER-GENERAL: No; I cannot allow that.

The HON. T. L. MURRAY-PRIOR said that the intentions of the framers of the 54th clause of the Act of 1869 had already been explained by him, though what the reading of a lawyer might be was a different question. The hon. Postmaster-General in his able and eloquent speech—able especially because the hon. gentleman managed to introduce everything that might be pleasing and to omit everything which tended against himself—forgot probably that there were other Acts in which the pre-emptive right was more decidedly and explicitly shown. He was now referring to the Railway Reserves Act. He had no doubt the Postmaster-General knew the bearing of that Act, but if he should not happen to know it—and he could only suppose that the hon. gentleman had not read it as carefully as he might have done, or he would have been more explicit and would have brought it forward in his arguments. If the hon. gentleman would look at clause 5 in the Western Railway Act of 1875 he would find under the heading "Lands in Pastoral Leases" these words:—

"The lessee shall have and may exercise the right to pre-emption conferred upon him by the 54th section of the said Act, over any part of his run that shall not for the time being have been so reserved or selected, or have been proclaimed for sale by auction or as a homestead reserve."

He wanted to know what could be more conclusive than those words. He had no doubt that if he were to follow the speeches of hon. members on that subject he should find more even than was shadowed forth in the clause he had quoted. Again in the Railway Reserves Act of 1877 in clause 4 under the same heading of "Lands under pastoral leases," subsection 4 said:—

"The lessee shall have, and may exercise the right of pre-emption conferred upon him by the 54th section of the said Act, over any part of his run that shall not for the time being have been so reserved or selected, or have been proclaimed for sale by auction, or as a homestead reserve, or as open to selection by conditional purchase, or as a homestead area, provided that it shall be lawful for the lessee of two or more leases adjoining each other, subject to the approval of the Governor in Council, to consolidate in one block the pre-emptive selections which he may be entitled to make in respect of each of the adjoining leases aforesaid."

To his mind nothing could be more conclusive than that the Crown lessees had a pre-emptive right, and he thought it would be most unwise of any Government to attempt in any way the repudiation of that right. The manner in which the repeal of that clause had been insisted upon by the Government only showed him that they must perceive some greater reason for sticking so firmly to it than he could make out; because, if that 6th clause were not in the Bill, he could hardly see how the Government would be very much affected by it. In the first place there was a very large number of lessees—of outlying leases especially—who would never dream of going to the expense of taking up their pre-emptives. A pre-emptive of 10,000 acres in the outlying districts would be of very little use, and the only thing which could induce a pastoral lessee to take advantage of his pre-emptive right in such a case would be to preserve himself, and to prevent any person coming so near to him as in fact to injure his business. He would be, and as a rule, many lessees had been, paying blackmail. Even if the Bill passed those persons would certainly not take up their pre-emptive rights, and the only persons, so far as he could see, who would avail themselves of the pre-emptive rights, would be those whose pre-emptions would be of considerably more value than the money which they would have to pay for them; and they would be very few indeed. For his own part he did not look on the pre-emptive right as a great boon, and under the circumstances it would matter very little to him whether that clause remained in the Bill or not; but there were some who looked at it in a different light, and who would like to take up their pre-emptives, and who felt that they had a right to them. He had, to his own mind, and he trusted to the minds of the majority of the members of the Council, and to the minds of all honest people who took an impartial view of the matter, substantiated the case that pre-emption was a right, both legal and moral. It certainly was a moral right, because the hon. gentleman, who was Minister for Lands at the time, himself said that his intentions were to give that right; because the right had seldom or never been refused; because it was allowed to be a right by custom; and further, because the legislature intended that it should be a right, as was certain from the clause from the Railway Reserves Act and the Western Railway Act, which he had already read. Being in committee, he did not think he need at present go any further than that, as he should be able to speak again if it were necessary, when he had heard what was to be said. He would merely say that he would vote against the clause, and divide the Council upon it.

The HON. K. I. O'DOHERTY said that if he might be permitted to do so, he would suggest that they should adjourn the debate at that hour. He suggested that in the interests of his hon. friend the Postmaster-General.

The POSTMASTER-GENERAL: I would sooner go on for another hour.

The HON. K. I. O'DOHERTY said the hon. gentleman had spoken a good deal already that afternoon, and he thought in his interest he might very well adjourn the debate.

The HON. SIR A. H. PALMER said that the Hon. Mr. Mein had informed him privately that he would rather answer the Hon. Mr. Murray-Prior that night, and he thought it would be better if he were allowed to do so.

The POSTMASTER-GENERAL said he preferred following the hon. gentleman, as he did not think he had given very hard work, for he had never heard such a lame attempt to bolster up an unstable cause. The hon. gentleman wished them to understand that there was an absolute contract between the Government on

the one hand, and the pastoral tenant on the other; that the pastoral tenant—whenever he thought fit, according to his own sweet will, to apply for 2,560 acres on his own run—had the absolute right to purchase that area at 10s. per acre; and that the Government had no legal or moral right to debar him from exercising that privilege. He repeated now what he stated on the second reading of the Bill, that they could only gather in that, as in all other cases, the intention of the Legislature, from the language used; and if they were in any doubt upon the subject they could refer to other Acts dealing with pre-emptive privileges to which the hon. gentleman had carefully abstained from referring. In passing the Act of 1868 the question of pre-emptive right cropped up, and the Legislature there made provision for resuming the runs in what were then called "the settled districts," conferring privileges upon the lessees, in cases where improvements had been constructed—conferring upon them the right, if they thought proper, of purchasing up to 2,560 acres, and abandoning any claim they might have for improvements. The language used on that occasion was very explicit and clear indeed. He believed it was the same Legislature; they thoroughly knew their business, the meaning of the words used, what they were intended to convey; and they used language suitable for conveying their intentions. He would quote to hon. gentlemen the words that were used in that case, and then let them contrast them with those used in the Act of 1869. The 14th section of the Act of 1868 had a marginal note in those words:—"Right of purchase of pastoral tenants for improvements"; and the clause itself commenced in those terms:—

> "Pastoral tenants in the settled districts may previous to the expiration of twelve months' notice of resumption, make pre-emptive selections to the extent of one acre for every 10s. value of improvements at the same rates as those demanded from conditional purchasers to secure their homesteads and improvements in lieu of compensation thereof."

And then at the end it provided:—

> "In consideration of the above pre-emptive privileges or either of them being exercised all claims on the Government for compensation for resumed improvements shall be relinquished."

By the intermediate part of the clause they were allowed to take up the 2,560 acres in three different blocks. Contrast the phraseology of that with the phraseology of the 54th section of the Act of 1869. Who was the person interested? The pastoral lessee; and the word used was "may." He could or could not, as he pleased, take up 2,560 acres. There the intention was to give an absolute right, and words were used suitable to the intention of the Legislature; but when they came to the Act of 1869, "may" did not apply to the pastoral lessees, but to the Governor in Council. It made it lawful for the Governor in Council, if he thought proper, to grant a lessee, without competition, 2,560 acres at 10s. an acre upon his run. For what, let him ask? It had been talked about that the Government were bringing in a policy of repudiation; but even if there was a contract, what was it? The Governor in Council was authorised to convey 2,560 acres of land to the pastoral tenant—for what? To enable him to secure permanent improvements. Now, he would ask hon. gentlemen—those who were interested as pastoral lessees in the government of the country—how many pre-emptive selections had been made that had embraced permanent improvements? Under a subsequent clause of the Act he had quoted the Governor in Council had power to resume land from the occupation of the pastoral tenant, but until resumption had effect by subsequent alienation, the lessee was to continue in occupation, with this proviso:—That if the portion resumed embraced improvements, they were to be paid for when they went out of possession of the lessee. Clearly, the Legislature that passed the Act of 1869, had in contemplation two states of affairs, one of which was that the pastoral tenant would desire to get his improvements, upon which he had probably spent a large sum of money, and which were of a character valuable to himself, and that the Government if they thought fit, and that it would not interfere with the public interests, might grant 2,560 acres; but as he had said before, that right would be completely swept away, immediately upon the Government giving notice of their intention to resume, and, in order that no injustice should ensue, the Legislature said "If you like to resume you must pay for the improvements when the tenant is deprived of them." And mark! those were not ordinary improvements, as defined by section 3 of the Act of 1869, but improvements of a permanent character; and surely it was the duty of the Government, even if there had been a contract, to see that it was carried out. It was their duty, in the interests of the public, to see that no purchase without competition, at the small price fixed, was effected in regard to property that had not been permanently improved. The Hon. Mr. Prior had referred to the Railway Reserves Act, and he (the Postmaster-General) was perfectly familiar with those Acts—with what they meant and what they intended to convey—as he had carried them through the Council. They simply meant that whatever rights were conferred by the Act of 1869 were continued to the holders of leases under them and no more. No new rights were conferred. The hon. gentleman by his candour had assisted him in his argument considerably. He had told them, honestly no doubt, that it was not for the purpose of securing improvements or carrying out a contract made with the Government, that the lessees wanted an absolute pre-emptive right conferred upon them, but that it was to enable them to protect themselves, to prevent unnecessary interference, and to place them in a position so that they might, if they thought proper, pick out the eyes of the country, and render it utterly useless for pastoral purposes to any subsequent holder. That was the very thing the Government wished to avoid. It was to prevent such a state of things that they desired to see that so-called right repealed. Even if it was a right, was it not competent for the Legislature at any time to step in, when they saw a privilege being abused, and repeal it? It was avowed by the representatives of those persons who were in opposition to the repeal of of the clause—it was candidly avowed by them that the object of the pastoral lessees was to preserve themselves, to prevent any person from coming near them so as to injure them—and he would again ask, was it not competent for the Legislature, when they found that the privilege given was being abused, to step in and say they would not allow it to be continued, especially as by the Bill under consideration they gave the pastoral lessee an equivalent? They said to the pastoral lessee, "If you choose to come under this Act, we do not intend to rob you of your improvements." He was now assuming, for the purpose of argument, that a right was conferred by the Act of 1869, by which 2,560 acres should be given to secure improvements; and he said that because that privilege had been abused the Legislature had a right to step in and prevent it; but at the same time they did not propose to do any injustice. The pastoral lessees were perfectly secure, because if their improvements were taken away they would have to be paid for them. There was no

repudiation in that. It was what any honest, just man would be prepared to do, and he maintained that, in the interests of the State, and especially after the manner in which the privilege had been exercised and abused under the Act of 1869, and looking also at the altered condition of the country, it was the duty of the Legislature to repeal the clause, more especially in view of the fact that they were not proposing to do any injustice at all, but to give the pastoral lessees compensation equivalent for the improvements which the Legislature in 1869 contemplated they would desire to secure.

The HON. A. C. GREGORY said, in dealing with this question—the proposed omission of clause 6—the gist of which was practically to repeal clause 54 of the Pastoral Leases Act of 1869, a great deal had been said as to what the meaning of the clause might be. Some hon. gentlemen considered that it conferred an absolute pre-emptive right, others thought it was doubtful; but irrespective of what those opinions might be, the opinion would not change what the clause really did mean. If it did confer a right, it would be improper and unjust on their part to attempt to take away that right from those who had already entered into a contract with the Government to take land under the Act as it now stood; and indeed his impression was, that if they were to go through the form of repealing clause 54 of the Act of 1869, it would have no effect whatsoever under the contract which existed. It was immaterial whether the contract would subsist in such a form that the Government might decline to carry out certain things in connection with it; but they had no right to place one of the parties to the contract under a disability in regard to the fulfilment of it, consequently he deemed that they had no right—that, in fact, it would be going contrary to the Constitution if they were to attempt to abrogate the existing contract. It had been argued by the Postmaster-General, and, personally, he (Hon. Mr. Gregory) did not see that he was altogether wrong—that the clause of the Act referred to simply gave the Governor in Council power to sell land to the pastoral lessee under pre-emption; and it was also perfectly clear that the existing Government would not be likely to sell to the lessee. So far so good; and if the present Ministry were going to remain in office until the termination of the existing leases, practically it would have no effect, whether the clause were repealed or not. Nevertheless, as it stood, it would be a blot upon their Statute-book if they were to attempt anything like repudiation, even though it would not prejudice anyone. The hon. Postmaster-General had compared the pre-emptive right conferred under the Act of 1868—which gave certain pre-emptive concessions, as they were termed, to the lessees, to cover improvements upon the resumed portion of their runs—with the provisions of the Bill. But the Bill not only abstained from allowing any possibility of a lessee covering his improvements, but they made a special provision to prevent him; and although it had been necessary to admit that the lessee was entitled to compensation for any improvements which might be taken from him; still, that was no reason why they should fall back upon those lessees who were altogether outside the operations of the Bill, and say that part of the contract with them should be abrogated. It was not a question of whether the clause did or did not confer a right, or to what extent the right was conferred; but it was part of the contract, and as such, he thought it would be highly discreditable for that Committee to repeal it, especially as its existence could do no harm. He should support the omission of the clause.

The POSTMASTER-GENERAL said he understood the hon. gentleman to say that the Bill made no provision for the lessee being protected in regard to the improvements made on the resumed half of his run.

The HON. A. C. GREGORY said he was not objecting to that part of the Bill. He knew that provision was made for compensation by means of the payment of money.

The POSTMASTER-GENERAL: What more does the hon. gentleman expect?

The HON. A. C. GREGORY contended that a large number of pastoral lessees held leases under the Pastoral Leases Act of 1869, that the contract between them and the Government embodied certain provisions, and that the 54th clause of that Act being a part of the contract, the Committee had no right to abrogate that clause.

The HON. W. FORREST said the legal aspect of the pre-emptive right had been argued threadbare, both there and elsewhere. If it was not a legal right, then in the Australian colonies there must be a great number of very dishonest or very ignorant lawyers. Many gentlemen had obtained the opinions of legal gentlemen of high standing, and those gentlemen gave it as their opinion that it was a right. On the strength of those opinions money had been advanced; and mortgages had been constructed by one lawyer, and examined by another, containing provisions to the effect that the mortgagee might elect to call upon the mortgagor to exercise his right of pre-emption. The Committee did not sit there as a body of lawyers, but as legislators, endeavouring to get at what was intended by those who framed and passed the clause; and they should not be misled by legal technicalities. The Secretary for Lands at that time stated that it was a most liberal "right"; and within a dozen lines he used the word "right" twice. Then the marginal note of the 54th clause called it a pre-emptive "right."

The POSTMASTER-GENERAL: Over improved lands. But it does not matter—it is not part of the Act.

The HON. W. FORREST: On the second reading of the Bill the hon. gentleman said he did not know how those words got there; but anybody reading the clause would know. It was called a pre-emptive right simply because it was a right, and because it was intended to be a right. But with regard to improvements, he (Hon. Mr. Forrest) never asserted that there was a right to select land without some improvements; but since they were talking about the legal point of the matter, he might point out that not a word was said as to the value of the improvements; so long as they were permanent improvements a man had a right to select—simply to secure his improvements. To come back to their position in the matter: he thought that by reading—and he had read a good deal on the point—the should endeavour to find out what was the intention of the legislators who framed the Act. And no one who read the debates would have any doubt that it was intended as an absolute right, and that no mention was made as to the value of improvements. The word "right" was mentioned a dozen times. And what was the state of the colony when the Act of 1869 was passed? He was then a squatter in what was then an outside district; there they received a mail once a fortnight; and he remembered that the Bill was for a long time called the Pastoral Districts Relief Bill. At that time the country was reduced to such a state that it was really a question whether squatting would have to be abandoned altogether; and a careful perusal of the debates on the Bill would show that the primary object of the Legislature was to give such a tenure, and hold out such

inducements, as would bring to the colony that for which it was languishing—capital—and that which might justly be looked upon as security for that capital. And it would be disgraceful, scandalous, and dishonest, now they had induced capitalists to come to the colony, and got their money, to turn round and take away that which induced them to come. He never had the slightest doubt that so long as a man had made permanent improvements of any value he had a right to select; and he asked the Committee to pause before consenting to pass the clause now under consideration. If they thought it was a right, they ought not to dishonour the colony by repudiation. They had something more to consider than the mere legal view of the matter; and he was ashamed that gentlemen, in order to make others understand the clause, had to fall back on such a contemptible quibble as the Acts Shortening Act. Was ever the Acts Shortening Act mentioned during the whole of the debate on the Act of 1869?

The HON. W. H. WALSH: Who had to fall back on the Acts Shortening Act?

The HON. W. FORREST: The Postmaster-General and some hon. gentlemen in another place, in trying to give a legal explanation, fell back on the Acts Shortening Act to explain the meaning of certain words. When hon. gentlemen passed Bills, they passed them thinking that they meant a certain thing; but after they got into the Statute-book, they were told by some lawyer—perhaps by a gentleman who helped to pass the Bills—that they had a different meaning; and the Acts Shortening Act was quoted to prove the difference in the meaning. How long were they to groan under those legal definitions and technicalities? He hoped yet to see a Bill brought in to utterly abolish any act that would give a meaning to any Act of Parliament different from the meaning into which it was ordinarily construed. He should vote against the clause, because he considered the pre-emptive right to be a privilege established by law, and any attempt to abolish it or to interfere with it was an act of repudiation; and to that he could never give his consent.

The HON. A. J. THYNNE said that the first convincing proof to his mind that the clause ought not to be passed in its present shape, was contained in the words of the Postmaster-General, who said that he recognised in many cases the honest belief of the pastoral tenants that they would be entitled to the pre-emptive right.

The POSTMASTER-GENERAL: That is only the half of what I said. I said they effected a large amount of improvements in the honest belief that they would be able to pre-empt.

The HON. A. J. THYNNE said he was quite content to take the hon. gentleman's interpretation of what was said—there was an honest belief existing in the minds of the pastoral tenants that they had a right to pre-empt. That honest belief did not extend merely to them, but impressed itself on the financial institutions which had advanced money on the security they expected to get. It had been said that to pass the clause in its present shape would be an act of repudiation; and there were two ways of looking at it. First, there was repudiation in fact; and then again there might be honest grounds for a *bonâ fide* belief that repudiation was intended. To his mind there was little difference between the two; because if a man honestly believed the other party had repudiated a legal bargain it was pretty nearly as bad, so far as he was concerned, as if the repudiation was complete. So far as the impression made on the credit was concerned, it was just the same as if they had repudiated a bargain. There was an honest belief in the existence of the pre-emptive right on the part of the lessees; there was also an honest belief in it on the part of those who advanced money on runs; and there would be an honest belief in repudiation. That was a very important factor to be considered in looking at the proposal before the Committee. He was not an experienced pastoralist, and perhaps had not had the experience of a good many members of that Committee, but he had tried his best to come to a proper solution of the difficulty. He found that in the Act of 1868 there was what was known as a pre-emptive right, and there was the 54th clause of the Act of 1869. The practice of the Government, from that time until very recently, was to allow the exercise of that pre-emptive right without question. Therefore, he contended, notwithstanding the argument of the Postmaster-General, that an Act was to be read entirely according to the words in it; that in a matter where the Legislature and the Government were directly concerned, as against the pastoral tenants, the matter should be looked at in a very different light indeed from that in which they would regard a question between two outside parties having nothing to do with the State. Certain statements had been made in Parliament and quotations had been cited by previous speakers showing that the power to pre-empt was called a "pre-emptive right" when the Bill of 1879 and other measures passed since were before Parliament; and that it had been held to be a right by the Government and their officers until within a very recent period. He considered that having created in the minds of the pastoral tenants an honest belief in their right of pre-emption, and that belief having been created by the words of Ministers, and by the practice of successive Governments for many years, if pre-emption were not a right originally, it had now grown up into a right, and therefore it would be an act of repudiation to repeal the 54th clause of the Act of 1879. But there was another aspect of the question. Hon. members must be aware that at the present time, in the northern parts of the colony especially, a great many labourers were being thrown out of employment. He was not far out when he said that on the sugar plantations there were 100 or 150 men losing employment, and those unemployed people were going to New South Wales in shoals. Perhaps it was a question where they went to, but he believed a large proportion of them went to New South Wales. If they repealed the 54th clause at the present juncture they would debar those men from getting employment in what should be open to them as an ordinary field of employment. What inducement would pastoral tenants have now in making improvements on their runs? It had been practically impossible for many squatters to make improvements during the past three or four years owing to the drought. Therefore from those two points of view—namely, to avoid repudiation, and to afford employment to men who were losing their work—and for other reasons, they ought to let the clause stand as it was originally.

The POSTMASTER-GENERAL said he failed to see any connection between the two things—that because men were ceasing to get employment on the sugar plantations, therefore they should allow the 54th section of the Pastoral Leases Act of 1869 to remain, in order that, as labour was cheap, pastoral tenants could go in for improvements on their runs so as to take them up afterwards. He could not see that that would be any inducement to the pastoral tenant. The hon. gentleman had thought fit to quote him and verify the quotation by referring to the words he used. The hon. gentleman said he

(the Postmaster-General) had to check him, and he was quite right. The hon. gentleman had quoted a part and not the whole. He (the Postmaster-General) preferred to be quoted entirely when he was quoted at all; and to put himself straight he would read the words he used:—

"Therefore, holding these views, and with the intention of setting the matter at rest, and placing it beyond doubt, the Government have thought it desirable while dealing with the land question to introduce this clause which repeals the 54th section of the Act. There can be no doubt that several tenants, possibly a large number of pastoral tenants, have honestly thought that by an expenditure of money, equivalent to ten shillings per acre, upon their runs in the shape of improvements permanently benefiting their runs, they would be entitled to secure, under this 54th section, 2,560 acres of land embracing the improvements."

That was very different from what the hon. gentlemen said—very different indeed. What the clause proposed to do was to enable all the pastoral tenants who had made improvements on their runs in the honest belief that the pre-emptive right existed, to come in within six months and say, "We want to take up this land on which we have honestly expended this money for improvements in the belief that we would get the privilege of purchasing." The Government recognised that honest belief. There was nothing else in the hon. gentleman's speech to answer. He had answered the hon. gentleman on those two points, and therefore he ought to support the clause. With regard to the other argument the hon. member had used, he was quite satisfied no other hon. member would see any force in it—the peculiar argument that because a man thought a certain thing was repudiation, therefore it was repudiation.

The HON. A. J. THYNNE: I did not say anything of the kind. The hon. gentleman is misquoting me now.

The POSTMASTER-GENERAL said he would like to know what the hon. gentleman did say. He did not use those exact words, but that was the pith of his argument. The hon. gentleman looked at repudiation from two points of view——

The HON. A. J. THYNNE: Yes.

The POSTMASTER-GENERAL: And said whether it was repudiation in fact, or whether a person understood that it was repudiation, it was all the same.

The HON. A. J. THYNNE said that was not what he said. He was very glad to have an opportunity of stating what his argument was in language that would be clear to the Postmaster-General. What he said was, that there were two ways of looking at repudiation; one was repudiation in fact; the other was when the party who made the charge, really believed that one had been guilty of repudiation; and he considered that in either case where one's credit was concerned, there was practically no difference.

The POSTMASTER-GENERAL said the word "credit" was a new element in the question; but he accepted the hon. gentleman's explanation—that because a man honestly considered himself aggrieved, he should obtain redress from the other party, even although he was not strictly entitled to it. That was a proposition no sane man could maintain. Most men who went to law and risked litigation had an honest belief that they were entitled to a verdict; but if the hon. gentleman's dictum were extended to its logical conclusion, as soon as a man went into a court of law, supposing he were a just and upright man and honestly believed he had a claim, it would be the duty of the other party to the suit to pay him, even though he had no claim and the other honestly believed he had no claim. The hon. gentleman had had some experience of phraseology, but he noticed that he did not refer to the phraseology of the Act of 1868. There was no doubt that that Act was intended to confer a privilege, and it was conferred in unmistakable language. But the Act of 1869 gave only a discretion to the Governor in Council, and used words to express that intention. There was not a single word used in the Act of 1869 to express an absolute and indefeasible right. The Hon. Mr. Taylor, introducing the Bill in the year 1869, said that was a sort of pre-emptive right; there was nothing to indicate an absolute or indefeasible right to anybody.

The HON. W. GRAHAM: Is he speaking for or against it?

The POSTMASTER-GENERAL: He was the member who introduced the Bill. He did not know whether the debates were reported in those days as fully as they were now; but the hon. gentleman seemed to have said very little on the subject. Mr. Archer disagreed with the clause, and said it did not confer any privilege. He would quote the Hon. Mr. Taylor's exact words. That gentleman said, "He thought that was a kind of pre-emption that was liberal, and would be accepted by all parties." The Hon. Mr. Taylor referred in his speech on the second reading of the present Bill, to a gentleman whose death every man in the community deplored, and who occupied a very conspicuous position in the colony for many years, and who was one of the most honest administrators, and one of the most upright men they had had in their Legislature—the late Mr. T. B. Stephens. He understood that the Hon. Mr. Taylor represented in that Chamber—he did not read the hon. gentleman's speech—that the Colonial Treasurer (Mr. Stephens) urged the introduction of the pre-emptive clause, in order that additional revenue, which was much needed, might be raised, and that Mr. Stephens would have been only too glad for all squatters in the country to exercise the privilege of pre-emption. He (the Postmaster-General) knew Mr. Stephens' feelings with regard to pre-emption very well, and was intimately associated with him when he introduced the Land Bill in a succeeding Government. He believed that it was chiefly through his exertions that the peculiar phraseology of the Act of 1869 was introduced. Under the Act of 1868 no resumption could be made except by resolution of both Houses of Parliament. Mr. Stephens often declared that he never would be a party to such a bar to settlement, and expressed that opinion to him (the Postmaster-General) over and over again, and he secured an alteration in the Act of 1869, whereby it was provided that resumptions could be made after certain notice unless they were dissented from by both Houses of Parliament, leaving the discretion to the Governor in Council as to what the resumption should be. To his mind the observations of the Hon. Mr. Forrest, in his indignant protest with regard to what he was pleased to term "repudiation," were worthless. The hon. gentleman said that many lawyers had said that the 54th clause gave an absolute right. He (the Postmaster-General) was a lawyer, and he had to deal with those matters both here and in the other colonies, and he could say that it had never come under his observation that any lawyer had been so rash as to state that there was a right. He was quite confident that no lawyer who valued his reputation as worth a threepenny bit would deliberately sit down and state that the 54th section of the Act of 1869 could be interpreted under any circumstances to confess an absolute right upon the pastoral lessee. Talking about the quibble of going back to the Acts Shortening Act—would any hon. gentleman in that Committee honestly say in his heart, reading that phraseology and putting the ordinary

interpretation on English words—putting all legal quibbles aside altogether—that the language used could be read by any unprejudiced and disinterested man to confer an absolute right upon the pastoral lessee? It did nothing of the sort; and no man could possibly say so who was accustomed to weigh words, even though he were not a lawyer. The clause said:—

"For the purpose of securing permanent improvements it shall be lawful for the Governor to sell to the lessee of a run, without competition, at the price of 10s. per acre, any portion of such run."

If any schoolboy of ten years of age were asked this question: "Must the Governor do that whether he likes it or not?" what would be the answer? "Certainly not; the Governor may do it or not, as he pleases." Those words were in the Act when it was introduced as a Bill, and it was unaltered in its passage through Parliament; and he said those persons who framed it, having at their head their present Chief Justice—a man who was accustomed to weigh words, and knew perfectly well what he was about—intended to convey the meaning that the most uneducated man in the community would put upon it, which was: that it would be optional with the Governor in Council to do that or not as he thought proper. The Hon. Mr. Forrest laid some stress upon the fact that the amount of the improvements were not stated. They were not stated for the very obvious reason that it was in the discretion of the Governor in Council to determine the amount. He was to be satisfied of one thing—that the improvements were to be permanent. Fencing would not come within that description, because in the 56th section a life was fixed for fencing at fourteen years; and after fourteen years there was no value attached to it. As he had said, men had got up and asserted—he wondered how they could do it—that all a man need do to bring himself under the provisions of that statute was to put up one panel of fencing, and he could then go to the Governor in Council and demand to be allowed to pre-empt 2,560 acres. He asked any man in that Committee if they could honestly state that that was the intention of the framers of that Act—that the mere colourable erection of an improvement was sufficient to give them that right? He said they were justified in introducing that 6th clause for the purpose of rendering it impossible that such abuses of a privilege should be made, especially when the Government made ample provision for paying a man for any improvements he might have made upon his run. He called upon hon. gentlemen to seriously consider the situation. Whatever right or privilege there was could be taken away to-morrow. The Governor in Council would have simply to issue a notice acquainting the pastoral tenant, who had not already taken advantage of the clause, of the intention of the Government to resume his run; and then within eight months, presuming that the Legislature met within that time, and hon. members of both Houses did not dissent from it, the resumption would take place.

The HON. W. FORREST: The lessee may select in the meantime.

The POSTMASTER-GENERAL: He cannot select in the meantime, unless under the Railway Reserves Act and under the Western Railway Act.

The HON. W. FORREST: Why not?

The POSTMASTER-GENERAL said, because under the 55th section he would have no power to pre-empt. He asked were those persons who talked about a legal right sincere?

The HON. W. FORREST: I am.

The POSTMASTER-GENERAL: Were they sincere in stating that there was a legal right for the pastoral lessees to get those pre-emptions? If that were so, how was it that not one man had dared to test a case in the courts upon it? If they chose to say that they did not like to be guided by the opinion of the Supreme Court of this colony, they could go to the highest tribunal in the Empire—to the highest tribunal in the British dominions—and appeal to the Privy Council. And yet they had not done it, because they knew full well that there was no such right.

The HON. W. FORREST: What about the expense?

The POSTMASTER-GENERAL said the expense was a mere trifle. If, as it was said, it was of immense importance to the pastoral tenants, why could not they club together, and try a test case?—and he had no doubt the Government would be most anxious to assist them in the matter. He said distinctly that the Government did not want to take away a right; they wanted to prevent the abuse of a privilege, and, further, give in return an absolute equivalent. Under those circumstances, he sincerely trusted that hon. gentlemen would not deliberately set themselves against the decided opinion of a large majority of the representative branch of the Legislature, especially in a matter in which they had a strong personal interest, and in view of the possibilities that might take place afterwards.

The HON. T. L. MURRAY-PRIOR said that after what the Postmaster-General had said he could not sit down and remain silent. That hon. gentleman knew in his conscience, as well as he (Hon. Mr. Murray-Prior) did, that what he said in his place in that Chamber came from his heart, and in the belief that what he was advocating was for the good of the country. He used his reason so far as he could, though he did not pretend to be so clever as the hon. gentleman, or to be able to choose his words so well. Whatever construction was put upon his words they were there. So far as the Act of 1868 went, he perhaps knew as much of that Act as the hon. the Postmaster-General did, because he happened to be the member who brought that Act through the Council; and that hon. gentlemen knew as well as he did that if there was anything in that Act that would lead him to come to a different conclusion he would never have taken the part he had taken that evening—a part which he was sure he would never regret. He believed he had acted impartially in the matter, and he believed other hon. gentlemen held the same opinion, and held it conscientiously, and it was not fair for the hon. the Postmaster-General, because he would go to the country on a different ticket to what some of them would, to try and put words into the mouths of people who were perhaps more liberal in their minds than he was himself—and which they had never uttered. He had a great admiration for the hon. gentleman, though he had more than once twitted him (Hon. Mr. Murray-Prior) with not being so clever as he might be.

The POSTMASTER-GENERAL: I have not done that.

The HON. T. L. MURRAY-PRIOR said the hon. gentleman had done so on more than one occasion, but he still had a great admiration for him in many ways; but there was one thing he was sorry to find in the hon. gentleman, and that was that he seemed to think too much of himself and to impute to others what he ought not to impute to anyone.

The HON. W. H. WALSH said he regretted exceedingly that the Postmaster-General had thought it necessary to make the speech—he supposed it was a matured speech—which he had just delivered. A more imprudent speech he had never listened to. If the hon. member wanted to capsize the Government, that was just the speech he should have made. A more

imprudent, and a speech more distinct from his own character as a politician, and at greater variance with his ordinary proceedings in Parliament, he had never listened to in his life. The hon. gentleman, when he looked over on the other side of the House, felt that he had got a lot of children to deal with, and he could tell this man that that was right, and he would agree to it, and the other man that something else was right, and he would agree to it. Even his hon. friend, Hon. Mr. Murray-Prior, because of the reverence which that hon. gentleman had for the Postmaster-General, would eventually quietly receive all that was recommended by the Postmaster-General; but he said it was to the discredit of hon. gentlemen on the opposite side for not having supported the Hon. Mr. Thynne in the able proceedings which he had himself promulgated and sustained in that Chamber; and it was wrong on the part of his hon. friend the Postmaster-General to try and drown, by his volubility, the able remarks and suggestions which were made by the Hon. Mr. Thynne. He hailed with pleasure the advent of that gentleman in active opposition in that Chamber; and he regretted exceedingly that not a single hon. member opposite had sustained him in his proceedings. He looked upon the hon. gentleman for the future as being certainly a leading member of that Committee, and as a man having advanced and disinterested views on such an important question as the Land question was at the present time; and yet the Postmaster-General was allowed to drown him by his volubility. The Hon. Mr. Prior got up to speak, and spoke well as an old statesman, and he got cheered exceedingly because he was an old statesman; but his hon. friend, the rising star of the Chamber, got up to speak and not one word was said to encourage him, although he had not the least doubt he was induced to take the leading part he had taken that night. There was not one word of recognition of the eminent services he was doing to his country at that moment. He thought he might say for the speech, after what they had heard, that the Opposition in that House had a leader whom they could respect and follow. Although he was inclined to support the Government in that particular matter, there was something too greedy and divided in the opposition to the measure. Nobody could object more than he did to the Bill. He was between two things, and he did not know what to do. He despised men who he felt were acting from interested motives, and he despised a Government who he thought were surrendering the best interests of the country for the sake of pandering to popularity—equally. He looked upon the hon. gentleman, who had spoken that night in opposition to the measure, as being the saviour of the country in the matter of the Land question. He had not intended to say a word; he had refrained from it as much as possible. But he could see the way things were going: that it was every man for himself, and not God for them all. Several arguments had been used by the Postmaster-General, which he could only attribute to the fact that the hon. gentleman was getting beside himself, which he believed he was, and that he was trading upon the credulity of a divided opposition.

The HON. W. GRAHAM said that, if they heard any more speeches like the one they had just listened to from the Hon. Mr. Walsh, they would have to provide themselves with extra pocket-handkerchiefs. He himself felt that he could almost weep when the hon. gentleman bewailed the want of appreciation shown on that side of the Committee of the speech made by the Hon. Mr. Thynne. But the Hon. Mr. Walsh sometimes forgot that he spoke so often himself that it was rather hard for other hon. members to get in a word. It so happened, that although the House was in committee, and the Hon. Mr. Thynne was perfectly well able to answer for himself, he (Hon. Mr. Graham) had taken a few notes of the speech made by the Postmaster-General, to which he would now refer. In the first part of his speech the hon. gentleman said he could not understand why labourers who had been employed by sugar-planters would be thrown out of employment if squatters could not exercise the pre-emptive right. No doubt there was sound argument in the remarks of the Hon. Mr. Thynne on that point, because a great many of the men employed by the sugar-planters were labourers, and if they failed to get employment there they would probably get it in fencing and other work about a station. It was customary in the colony for a man not to be of any particular trade, but to be able to turn his hand to anything in the way of fencing, shearing, well-sinking, and so on; so that, as he said there was sound argument in what the Hon. Mr. Thynne said. As to the interpretation which the Postmaster-General put upon repudiation in fact, and repudiation by the person who suffered by it, he thought the hon. gentleman should have taken the context of the Hon. Mr. Thynne's speech, where he referred more particularly to the individual, or company, or bank, who had been induced to make advances on the property. That, he thought, was also a fair argument. Another argument that had been used was in relation to the six months' time; and although it would have to be debated further on when they came to the clause dealing with it more particularly, he would now say a few words respecting it. It did not seem to strike the Postmaster-General, and some other hon. members on that side of the Committee, that while the squatters had been making their improvements, spending every available shilling they had upon them, and looking forward to the time when they could pre-empt, that it was very oppressive that they should be suddenly dropped upon and that such an extremely short time should be named within which the improvements should be made—in fact, that they should have been made before. He thought that would operate very harshly upon pastoral tenants, and he would no doubt have something further to say upon it later on. He certainly did trust, seeing the probability there was of a long discussion, that the Hon. Mr. Walsh would take a more charitable view of the subject, and not depress their spirits so frightfully that they would not be able to deal with the matter in a fair and proper way.

The HON. A. C. GREGORY said that hon. gentlemen had done their best to assist in carrying on the discussion, and he thought it would be desirable to adjourn the debate, as it was then past 10 o'clock.

On the motion of the POSTMASTER-GENERAL, the CHAIRMAN left the chair, reported progress, and obtained leave to sit again to-morrow.

The House adjourned at six minutes past 10 o'clock.