Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

THURSDAY, 27 AUGUST 1885

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LEGISLATIVE ASSEMBLY.

Thursday, 27 *August*, 1885.

Printing Committee Report.—Questions.—Petition.—Formal Motion.—Claim of Dr. Hobbs.—Charitable Institutions Management Bill—consideration of Council's amendments.—Local Government Act of 1878 Amendment Bill.—Ways and Means—resumption of committee.—Adjournment.

The SPEAKER took the chair at half-past 3 o'clock.

PRINTING COMMITTEE REPORT.

Mr. FRASER, for the Chairman, brought up the third report of the Printing Committee, and moved that it be printed.

Question put and passed.

QUESTIONS.

Mr. BLACK asked the Colonial Secretary—

When will the Statistics for 1884 be ready for circulation?

The COLONIAL SECRETARY (Hon. S. W. Griffith) replied—

In about a fortnight. The delay has been caused by the unusual and extraordinary press of work in the Government Printing Office.

Mr. NORTON (for Mr. Morehead) asked the Minister for Works—

When the Government intend to proceed with the extension of the Sandgate Railway towards Shorncliffe?

The MINISTER FOR WORKS (Hon. W. Miles) replied—

Plans of the proposed extension will be placed before Parliament this session, and as soon after as possible the necessary works will be proceeded with. No definite time can at present be stated.

PETITION,

Mr. BROOKES presented a petition from the members and congregation of Petrie-terrace Baptist Church, in favour of the principle of local option as contained in the Licensing Bill now before the House, and moved that it be read.

Question put and passed, and petition read by the Clerk.

On the motion of Mr. BROOKES, the petition was received.

FORMAL MOTION.

The following formal motion was agreed to :—

By Mr. SALKELD—

That there be laid on the table of the House, copies of all Correspondence between the Education Department and others, respecting the diverting of part of the Lower Bundanba School Reserve to other purposes.

CLAIM OF DR. HOBBS.

Mr. BROOKES, in moving—

That the House will, on Thursday next, resolve itself into a Committee of the Whole to consider of an Address to the Governor, praying that His Excellency will be pleased to cause to be placed on the next Supplementary Estimates the sum of £5,000, as compensation to Dr. Hobbs for losses sustained by him by reason of the action of the Municipal Council of Brisbane, under the Municipal Institutions Act of 1864—

said : Mr. Speaker,—It seems to me that I shall save the time of hon. members and best consult the convenience of the House by putting in the form of a narrative as brief as possible the facts connected with this motion. I fancy that the whole of the subject-matter can be comprised in the answers to be given to three questions. Was there an injury inflicted? What was the extent of that injury? And to what quarter is the injured person to look or apply for compensation? In 1874 the corporation of Brisbane determined upon widening the street at Petrie's Bight, which was a very necessary work. The person

named in this motion was the owner of two allotments there, having a total frontage of 223 feet. On each of those allotments there was a house erected, one a wooden house and the other a brick house. Both of the houses were valued at £2,000, and from them the owner could calculate with certainty on receiving an annual income which made the payment of the mortgages on the properties a matter of comparatively little moment. The corporation, in order to widen Petrie's Bight, then cut the street away to the extreme boundary line of those properties, leaving a perpendicular cliff some twenty or thirty feet high, unshored, and not protected in any way. Within a very short time the fences in front of the houses fell into the street, and shortly afterwards the corner verandah of one of the houses fell down. The buildings became uninhabitable, and no one would live in them. They were then pulled down and sold for old material, realising only £200. This is what I consider the first loss, Mr. Speaker. He lost the two houses and the rents coming from them. I might say with reference to this loss that I only point to it as a loss that occurred directly in 1874. I may have something more to say about this loss later on. The person named in this motion, the owner of the property, as any one of us would have done, began to look out for compensation. He applied to the corporation of Brisbane, and failing to get it from them voluntarily he sought to force his claim upon them in the Supreme Court. The case came on for hearing in 1875, and was tried before three judges—Mr. Chief Justice Cockle, Mr. Justice Lutwyche, and Mr. Justice Lilley. I ask the attention, the particular attention, of hon. members to what the Chief Justice said in his summing up. His words are very singular. He says :—

"If the facts really are as stated on these pleadings—which, however, we do not assume, except for the purpose of giving judgment upon them—no doubt something has been suffered by the plaintiff which he may well deem a serious injury. But it was for the Legislature to consider that; and, although the omission by the Legislature to make any provision for compensation in such cases as this might induce the court to look more cautiously into the interpretation of the Act, yet the absence of a compensation clause would hardly justify a tribunal in materially varying the construction which they would otherwise put on a given passage."

Now, Mr. Speaker, with my untutored and unprofessional mind I deduce these inferences from what the Chief Justice said: First, that in his opinion a serious injury had been done to the plaintiff; and secondly, that he could not give the plaintiff the remedy sought on account of an act of negligence on the part of the Legislature in omitting a compensation clause from the Municipal Institutions Act of 1864. And that being the case—the judge does not say this, but it is the only possible inference I can draw from his remarks—the plaintiff must seek his remedy elsewhere. So I want to know, Mr. Speaker, where this elsewhere is if it be not the Legislature. Well, failing to find his remedy in the Supreme Court, the person named in this motion presented a petition to the Legislative Assembly of Queensland. That petition was received and submitted to a select committee, of which Sir Arthur Palmer was chairman, in 1876. They reported as follows :—

"1. That your committee have examined various witnesses, whose evidence, which is attached to this their report, will be found to differ materially as to the value and extent of damage done to the property of the petitioner.

"2. That your committee are of opinion that had not the Municipal Institutions Act of 1864 been passed, the corporation of Brisbane would have been compelled to compensate the petitioner for the immediate damage to his property, without reference to any prospective profit that might accrue from their action.

"3. That as any claim the petitioner might have had on the corporation has been rendered inadmissible by the Act referred to, your committee feel that they are unable to make any recommendation."

From that we have an admission, at all events, on the part of this committee that an injury was done, and there is also an admission that the corporation of Brisbane were the proper body to adjust the matter, only it was not made compulsory in consequence of an omission in the Municipal Institutions Act of 1864. As this committee was unable to make any recommendation, it fell through. In 1879 there was another select committee appointed to sit upon the matter, Mr. John Scott being chairman; and this is the report drawn up by that committee :—

"1. That it appears to your committee that the petitioner has suffered damage by the action of the corporation of Brisbane to the amount of no less than £5,000.

"2. That your committee are of opinion that, had not the Municipal Institutions Act of 1864 been passed, the corporation of Brisbane would have been compelled to compensate the petitioner for this damage to his property.

"3. That, as any claim the petitioner might have had on the corporation has been precluded by the Act referred to, your committee are of opinion that the petitioner is deserving of the favourable consideration of your honourable House."

Here again we get a stage further than on the first report, for here we have the loss admitted and estimated at £5,000, and we also have a clearer statement still—that if it had not been for the omission of a compensation clause in the Municipal Institutions Act of 1864 the corporation would have been compelled to pay the petitioner the loss accruing to him by their action. The report of that committee appears to have come up so late, Mr. Speaker, that no action could be taken upon it, and it fell through that session. In the following year there was another select committee, of which also Mr. Scott was chairman, and they reported as follows :—

"1. That your committee have referred to the evidence upon this matter taken before the select committees appointed on the 25th September, 1876, and on the 22nd September, 1879; and have also further examined the witness named in the margin, whose evidence will be found appended hereto.

"2. That your committee are of opinion that the petitioner has suffered great loss by the action of the corporation of Brisbane.

"3. That your committee are of opinion that had not the Municipal Institutions Act of 1864 been passed the Corporation of Brisbane would have been compelled to compensate the petitioner for the damage to his property.

"4. That, as any claim which the petitioner might thereon have had was barred by the interpretation of the Act referred to when he brought the matter before the Supreme Court in 1875, your committee are of opinion that the petitioner is deserving of the favourable consideration of your honourable House."

That goes a step further still. I would like to draw the attention of the House, Mr. Speaker, to this fact: that it is not as though the three separate committees came to the same conclusion with no fresh evidence—the second coming from the first, and the third from the second—but the report of each was submitted after a reconsideration of the evidence given upon former occasions, and after the taking of fresh evidence; so that the report of the third committee is more valuable than either of the other two. In all these reports there is reference made to the Municipal Institutions Act of 1864. In 1858, before this colony was separated from New South Wales, Brisbane was incorporated under an Act passed by the New South Wales Parliament, and that Act contained a compensation clause. The Act of 1864 was introduced in the Legislative Council by Mr. Bramston, and while it was going through that House, singularly enough the person named in this motion called the attention

of Mr. Bramston to the circumstance that it would be advisable to put in a compensation clause. This was in 1864; and the very person who called the attention of the Postmaster-General to the necessity of having a compensation clause in the Act of 1864, by some freak of fortune is the very person who suffers through its omission in 1874. But that is merely by the way. The Postmaster-General admitted the necessity and stated his intention of having a compensation clause in the Bill. Strange to say, Mr. Speaker, no one knew, or no one appeared to know, for eleven years that it was not in the Bill. What does that show? It shows that for eleven years the corporation of Brisbane had it in its power to commit damage on private property right and left with impunity, and with no liability whatever to be called upon to pay damages. Until this was found out no one appears to have known that the Bill was defective. Of course it was rectified by the later Act of 1878, the Local Government Act; and I may say that in one clause of that Act it seems that advantage had been taken of the experience derived from this very case, because there is a clause in it—I do not want to tire out hon. gentlemen by reading it out, but I know the wording of it, and it is to the effect that the corporation of Brisbane, in the case of constructing or repairing streets, or drains, or sewers, shall be compelled to "shore" up the land so as to protect houses against accidental damage; and then there is another clause following, which says that persons injured through these precautions not being taken have their remedy, and they can apply for compensation and receive compensation, either by arbitration or by law. That is the present Act, and I will call the attention of the House to this: I allege, Mr. Speaker, that all this has arisen through an omission in the Act of 1864 of a compensation clause; and I further allege that an Act giving any body whatever power to deal with private property, and not containing a compensation clause, is an invalid and utterly illegal law. I allege that it is contrary to the fundamental principles of English law; and in fact we all know—do we not, Mr. Speaker?—that English law has been rather morbidly tender with regard to the protection of private rights and interests. Certainly this Act of 1864, not containing a compensation clause, was not an English law, and the omission of that clause was an act of negligence on the part of the Parliament of Queensland, and the Parliament of Queensland can be called upon to make reparation for that negligence. That is the law as I understand it—that in such a case as the cutting down of Petrie's Bight the corporation ought to have left fully two feet to protect that property from crumbling away and consequent decay. But more than that, if the injury had been done under the Victoria Bridge Act the petitioner would have received compensation, because in that Act there is a compensation clause. When the corporation were making the approaches to the bridge under that Act, in Queen street, the first place they came across was a chemist's shop, a tumble-down wooden building, which I have no doubt many hon. gentlemen remember, with about twenty feet frontage. In cutting down the street to make the approaches to the bridge, there was a change made in the position of that shop, to the extent of making it necessary to put another stone step to the front. It had about two before, and now it required three, or in other words there was no injury at all done; yet, under this compensation clause, they received £205. Then there was the land belonging to the trustees of St. John's Church. Hon. members know that on that property are now built a number of shops and the Longreach Hotel. There was nothing on it at that time except a dilapidated old building known as St. John's Sunday-school; but the trustees of St. John's Church received compensation, because of the alterations made at that time, to the extent of £500, though in no way could it be said that that amount of damage was done. I do not think, sir, that I shall mend my case by any further enlarging upon it; but I will just sum it up. Here is an injury done by the corporation which the Supreme Court say the corporation can escape liability for; three select committees of this House concur that had it not been for the omission in the Act of 1864 the corporation would have been compelled to pay compensation. Now, I want to know to whom can this injured man apply if not to Parliament? I want to know whether it is not in accordance with the traditions of Parliament that we should be prepared to accord this tardy justice to a man who has been injured in this way. As to the amount of compensation which should be granted, that is a matter which may vary according to different opinions. I will read Dr. Hobbs's statement for hon. members, and they can take it for exactly what it is worth, neither more nor less. He says that the whole frontage at £50 a foot would be worth £11,150. That is his estimate. Well, it is worth £100 a foot to-day. The loss of the two houses he values at £2,000; the loss in law expenses in the Supreme Court, £200; loss of rents for eight years, £1,920; loss by removal of earth, £700. I want to call attention to another fact, and it is that this property has since passed from the hands of Dr. Hobbs. It might be said—"Why did he not keep it? If he had kept it it would have reimbursed him for all this trouble and loss. He would have got £100,000 to-day for that property." The facts are not so. This loss, as I have pointed out in my remarks, was immediate, in 1874, when the property had not begun to rise in value. There were mortgages upon it, and by unfriendly foreclosure Dr. Hobbs had to part with it. Because of the cares and anxiety of his life, for he is a gentleman advancing in life, and these troubles really so reduced him in health, he was obliged to go to England to recruit his health, and he did not wish to leave Queensland until he had made all his affairs square, because he might never have come back; so the property was parted with for £7,600. That is all he got for his property. I hope I shall not hear, therefore, anything about what would have been his fate had he been able to keep the property till now. It goes without discussion that had he been able to keep the property till now he would have been a rich man indeed. He had to part with the property, and I think that the loss set down—namely, £5,000—does not at all represent his real loss, though I should be prepared to accept that amount as an acknowledgment on the part of Parliament that a wrong was done by the Parliament of 1864 in passing an Act which allowed the corporation of Brisbane to injure private people without being responsible for damages. I leave this matter to the House with some amount of confidence, because I am not prepared to relinquish the idea—the assumption, if it may be so called; I am prepared to believe still that an English Legislative Assembly like this has not lost its desire to show by its endeavour, when a case like this is put before it, to do what in its power lies to render justice where it is shown that it is fairly due.

The PREMIER said: Mr. Speaker,—This matter has been before Parliament a good many times. It was brought forward first of all by Sir Arthur Palmer, as has already been pointed out by my honourable colleague Mr. Brookes. It was introduced afterwards by Mr. Scott, the hon. member for Leichhardt, and, in 1880, the

ast committee sat on the subject, and a report was brought up by Mr. Scott, who moved the adoption of it. That was on the 21st of October, 1880. I moved an amendment upon the resolution, that we should go into committee with a view of considering an address to the Governor, praying that the sum of £5,000 might be placed on the Estimates as compensation to Dr. Hobbs. That was to give practical effect to the resolution; and I made the amendment because the adoption of the report alone would have effected nothing. No practical effect could have been given to it without the passing of the resolution to go into committee to consider an address to the Governor. The amendment I moved then was carried on division by 22 to 15, and a good many members who then voted are now in the House. The motion, as amended, was carried without a division,

The HON. SIR T. MCILWRAITH: To go into committee?

The PREMIER: Yes; the motion, as amended, was carried without a division. On the 12th of November in the same year the House went into committee, and there was in reality a majority in favour of granting £5,000, but the motion was obstructed until late in the evening, when the House was at last counted out. That is the last time it was before the House. I do not propose now to add anything to the facts stated by my hon. colleague. I am not speaking on behalf of the Government in this matter, nor do I know what opinions my hon. colleagues have formed upon it. I formed a very strong opinion upon it when I was an independent member of the House, and I have seen no reason to change it. I therefore feel bound to do in office as I did out of office. The facts are not altered, so far as I know, and therefore I individually feel bound to support the resolution. As to the opinions of my colleagues on the matter, I do not know, as I said, what they are, nor do I consider that I had any right to ask them in my capacity as leader of the Government. It is not a matter of Government policy. I hold very strong opinions upon it, which I expressed as a private member, and I feel bound to follow the same course in office unless I see satisfactory reasons for altering it. I know of no such reasons, and I shall therefore support the resolution.

The HON. SIR T. MCILWRAITH said: Mr. Speaker,—The hon. member has just told us that he feels bound to do in office as he did out of office. He has not given us many examples of that during the present session, as witness the pitiable position the Government took up the other night on Mr. Kates's motion for the resumption of the Darling Downs estates. That was a case where the responsibilities of office came on to the shoulders of the Government, and they put behind them the wild capers they had been up to in opposition. The hon. member has committed himself to the opinion that Dr. Hobbs is entitled to some compensation. But it is the duty of the Government to defend the Treasury, and I think the Premier had no right to express his opinion before the authorised Minister who looks after the Treasury had risen and given his opinion and the opinion of the Government on what I must call this extraordinary claim that has been now, for the sixth time, put before this House. It is the Treasurer's duty to defend the Treasury from the rapacity of private members, and he ought to have said what he has to say on the subject before the Premier had expressed his opinion on the motion that has just been made. Nor do I think the Premier was justified in the argument he used, for if he had chosen to answer the hon. member he would easily have shown how utterly unfounded his assertions were. The Premier refers to only one episode in the career of this motion in the House—namely, the episode where it was thrown out through want of a quorum in the session of 1880. He ought to have added that it was defeated afterwards, when it was again brought forward, and defeated by a very large majority. He must also recollect that the reason why the motion met the fate it did in 1880 was not because there was a majority of the House in favour of it, but because private friendship induced a good many members to stop away who ought to have been doing their duty. There was a small House on the occasion, because the motion had been deliberately relegated to the very end of the session by those who had charge of it. Towards the end of the sitting, when the hon. member says the motion was obstructed, there was a much smaller number of members present than at an earlier stage. As to the claim itself, I say it is a preposterous one, because if Dr. Hobbs has a claim against anybody it is not against the Government of the colony, but against the municipality of Brisbane. I want to show that it is not a claim to which Dr. Hobbs is entitled. We ought to discard altogether the *ad misericordiam* appeal made by the hon. member to our feelings with regard to the position of Dr. Hobbs. That is not a matter which we, as legislators, have any right to consider. I have a warm regard for Dr. Hobbs as a personal friend, but I consider I have a higher duty to perform, and that is to guard the public purse. Every hon. member has the same duty to perform, and the argument of the hon. member for Brisbane about the property having gone up in value since Dr. Hobbs was forced by ill-health to part with it should have no weight with us. We must consider the circumstances of the case as they actually are. What are the circumstances? The first time I remember hearing of the claim was in 1876, when a committee, of which Sir Arthur Palmer was chairman, was appointed to inquire into it. One paragraph of that committee's report is as follows:—

"That your committee are of opinion that, had not the Municipal Institutions Act of 1864 been passed, the corporation of Brisbane would have been compelled to compensate the petitioner for the immediate damage to his property, without reference to any prospective profit that might accrue from their action."

In other words, they say that if he had a claim at all it was against the municipality of Brisbane. They further express the opinion that that compensation should be granted by the municipality quite irrespective of the fact that Dr. Hobbs had received ulterior advantages by the improvements which caused him, in some respects, damage. With regard to that, I have simply to say that it is quite contrary to the principles of law and equity. In equity he is entitled to the balance between the good he derives from the public improvement and the loss he sustains as a private citizen. That is what is given by the Railway Acts, and it is what all fair principles of arbitration allow.

The PREMIER: Hear, hear!

The HON. SIR T. MCILWRAITH: The hon. member agrees with me, I see, on that point. The committee of which Sir Arthur Palmer was chairman expressed an opinion that Dr. Hobbs was entitled to no compensation from the Government, but that he had a claim—which, I say, was quite an illegal and inequitable one—against the Brisbane Municipality. The leader of the Government and I are agreed on that point, at all events. Just look at the commencement of the petition. It says—

"That your petitioner, at two Government land sales held in the township of Brisbane in the year one thousand eight hundred and fifty-three, purchased certain allotments of land situated in North Brisbane, being

portions of sections fifty-one and fifty-two, having frontages to Queen street, an unnamed street, and Adelaide street."

The claimant purchased the land more than thirty years ago and held it until within the last two or three years. He claims damages because a public improvement made by the corporation of Brisbane caused two of his wooden houses to tumble down. But look at the vast increase in value that has taken place since those properties were bought. Originally, perhaps, they were bought for £30 or £40 an allotment, while some of it now would fetch a great deal more than £300 per foot. I think that this fact has some bearing on the question before us. There has been evidence taken before two select committees, and before one of them—the first—the evidence is more to the point, for this reason: that it showed the damage that had accrued to Dr. Hobbs's property at that time. The evidence that was taken afterwards made the case very much better for the Government and against Dr. Hobbs, but I will take the evidence given at the time that he first made his claim—in 1876. He himself is called before the committee to show the damage that had been done, and is asked:—

"What do you calculate the damage done to the buildings and property at? I estimate the damages at what it would cost to cut down the hill to the level of the two streets, and to rebuild the two houses.

"Have you made any calculations of what that would be? My calculation would be only a guess, but it would cost at least £1,000 to remove and re-erect the houses, as they are plastered and there would be great waste of material, and the quarrying would cost about 2s. a cubic yard; then there is the carriage of it, which it would be very difficult to estimate the cost of. In regard to my offers to the corporation, the second I made was to this effect—that I would sell them the rock for the purposes of quarrying and move the houses myself. I requested the City Engineer to measure the cubic contents and also to give me an estimate of what he thought the rock was worth, and he told me that there were 17,000 cubic yards of good road metal and that it was worth 1s. a cubic yard. I made the corporation an offer after that specification of Mr. Chambers, but it met the same fate as my first proposition. After that I was obliged to apply to the Supreme Court to ascertain whether the corporation were liable for the damages done to my property or not, and the law point was tried by the judges in banco on the 12th September."

In other words, when he gave evidence before the committee in 1876 his claim against the corporation was for 1s. a yard for 17,000 cubic yards of stuff. That is £850. In other words, he said, "Give me £850 and all my claim for the damage done to the Queen-street frontage is wiped out." Now it comes to estimating what the damage done to the property was. On that the evidence is rather straggling, and it is difficult to arrive at it, but we find that, if we take the Adelaide-street frontage at the same rate as the Queen-street frontage, Dr. Hobbs's claim was twice £850. My own opinion is that he meant the offer of £850 compensation to cover the whole lot. However, the City Engineer was called in to estimate the value of the property and the cost of removing the rock, so as to bring the Adelaide and Ann street properties down to the proper level, and the Queen-street frontage to the level at which it is now. This is the evidence of the City Engineer, brought, I suppose, by Dr. Hobbs. I do not know whether he was brought by him or not, but I will take his evidence. I do not think there is much difference in the evidence as to the value of the property, and for the purposes of my argument his evidence is sufficient. He is asked:—

"From your own position as City Engineer, I presume you can estimate pretty nearly what damage has been done to the buildings by these proceedings? I can tell you what it will cost to lower the allotments and to make them available to the level of the road. In the Bight in Queen street the two allotments would cost £1,750 to level them.

"Is that to cut away the rock, and re-erect the houses? No, only to cut away the rock and remove it; I have taken 14,000 cubic yards, at 2s. 6d. a yard. Then there are two houses on those allotments, and at one time I made an estimate of the cost of taking them down and re-erecting them, and that was £700. The houses are in very bad repair, and that is why they would cost so much, if taken down, to be re-erected.

"Does that estimate include any damage done to Dr. Hobbs's private residence, by cutting through Adelaide street? No, that is another matter. We have not cut into Adelaide street yet, but we intend cutting it away to make it passable for traffic, and after that is done Dr. Hobbs's house will be twenty-five feet above the roadway and the floor of that house will be twenty-eight feet some inches above the roadway, as it stands high.

"Can you make any estimate of what the value of the rock cut away would be? The value of it to use again?

"Yes? It would only be useful for road metal, as it is not a building stone. I should say from £600 to £700 would be the value of it; there are many faults and breaks in it, which would only give that value to it—say, £700.

"Is it good metal? Yes; better than we have been using; it is good enough for ordinary side streets, but not for the main streets.

"By Mr. Ivory: Would people in town who have allotments, through the improvements of the corporation, made low in place of being elevated like Dr. Hobbs's, not be willing to take away stone for the purpose of filling up those allotments? Very few would be willing to take it away, but if supplied with it at a few pence a load they would take it.

"And you would be at the expense of carting it away? Yes; at the excavation being made on the site of the old police office the contractor has had great difficulty in getting rid of the stuff, and has sold a great deal of it at 6d. a load and for even less than that.

"By the Chairman: Can you give us any estimate of the value of the land as it at present stands? As it at present stands I should not value any of it at much above £20 a foot, and some in Adelaide street at less than that; but if this excavation was made it would be worth £30 a foot.

"By Mr. Ivory: In fact, the land would be greatly enhanced in value? Yes.

That is, by making the improvements the corporation were proposing to make at that time.

"You said it would take £1,750 to cut away and remove the rock, and £700 to take down and re-erect the two houses. With regard to the two allotments, do not you think that the enhanced value of the property would counterbalance that £2,450? I think it would.

"By the Chairman: Will you tell me what frontage that property has to Queen street? About 180 feet to Petrie's Bight.

"And how much to Adelaide street? The Queen-street frontage is rather over 200 feet, and the Adelaide-street frontage is about 180 feet.

"What is the depth? It varies from 33 feet to 200 or 250 feet.

"If you were calculating the value of that property, would not you calculate it on the Queen-street frontage? Yes; part of it I should calculate only on the Queen-street frontage, and where there is a good depth I should calculate the two frontages—on one allotment at any rate.

"You say you would calculate two frontages where there is a good depth? Yes.

"You mean in Adelaide street and Queen street? Yes.

"How many feet in Adelaide street would you count upon? At least 66 feet.

"What would you value the Adelaide-street frontage at now? From £12 to £11 a foot.

"And if cut down at what? It would be worth £30 a foot, I daresay.

"What would you consider the value of the material in the house—I mean to re-erect in another place? The value of the material would not be very much; it would have to be supplemented to re-erect the houses; it would not be above £400 in the two houses, probably.

"Can you estimate the value of that property in the same way as you did the other property—namely, its value as it now stands and what it would be if it was cut down to the level of Adelaide street? It would change pretty much the same as the other side of the street—from £13 to £3 5.

"How do you calculate the increase in the value of the ground on which Dr. Hobbs's house now stands, if it is cut down? For this reason: that Adelaide street at present is an impassable street; but if cut down there would be a thoroughfare and a good site for business purposes.

"Would it not depreciate the value of Dr. Hobbs's present abode? Yes; most certainly it would.

"What is the value of that residence? I have no idea; but if Adelaide street was cut down and Dr. Hobbs's house removed, and the ground on which it stands excavated, it would cost from £1,300 to £1,400 to make the excavations.

"You are not confounding this statement with the Queen-street frontage? No; the houses in the Queen-street frontage I have estimated at £750—I mean on one side of Adelaide street through to Queen street."

That is in figures what this evidence shows. The whole of the other evidence given by Mr. Arthur Martin, Mr. John Cameron, and Mr. Richard Gailey, does not vary very materially—not sufficient to affect my argument. The position is this: That as the property then stood, without the improvements, the Adelaide-street frontage, 66 feet, was worth £13 a foot—that is £858; the Queen-street frontage, 200 feet, at £20 a foot—£4,000; making altogether £4,858. Then certain improvements, according to the City Engineer, were required to be done in Adelaide street and Queen street, which cost in all £2,300. When that money was spent on those improvements the value of the property, according to the evidence, was: The Adelaide-street property—66 feet at £30 a foot—£1,980; the Queen-street property—200 feet at £80 a foot—£16,000; in all £17,980. Taking from that £2,300, cost of the improvements, we find that the net profit of making those improvements to the property stands at £15,680. I am explaining now the position of affairs at the present time. For the good of the public certain improvements were desired by the municipality. These were ordered to be done, and they were done for the public good; and in order to carry out this scheme Dr. Hobbs's property was brought down level with what would have been the proper business frontage of Queen street on the one side and of Adelaide street on the other. That cost £2,300; and from the evidence of the witnesses called it is shown that after this was done it increased the value of the property by £15,800. I think that is very plain. Let us go a little further. This property;—I do not care whether Dr. Hobbs is the owner now or not; it is his misfortune if he is not;—the property he asked compensation for at that time, or some property adjoining it with a frontage that is not so deep, was withdrawn from sale the other day at £300 a foot. I was told that—I do not know whether it is true or not—that £300 a foot was the reserve price on land near this, and not so good, with a less depth. In dealing with this matter it is quite plain we cannot dissociate the present proprietor of the ground from Dr. Hobbs. We cannot make the proprietor Dr. Hobbs at one time and a big syndicate at another. We cannot express our sympathy with Dr. Hobbs by putting our hands into the Treasury and paying him for the profit he did not make, because he was not so lucky as the syndicate. We have to regard the proprietor of that ground as an entity that has been in possession from the beginning, and what we require to see is whether the public has done any injury to that property which has not been compensated by the improvement done to the property. I do not say that the improvements which were made by the municipality, and which rendered Dr. Hobbs's house at the time an object of interest from the way it was perched up in the air—I do not say that those improvements were the sole cause of the increased price, but they helped very materially to produce it. It was the fact of making those improvements that makes Petrie's Bight such valuable property at the present time. I do not know the value of property there now, but I know that what he asked £13 for then is worth ten times that now. The hon. member who introduced this motion instanced the Victoria Bridge Act, and said that Dr. Hobbs would have got compensation if the Municipal Institutions Act had contained such a compensation clause as there is in that Act. He gives us an example of a man who was compelled to make three steps up to his house where there were only two before, and who got £200 as compensation, though his property was not injured at all. If that is the way in which the compensation clause was to act, I think the Government did right in omitting it from the Municipal Institutions Act. Let us look at the Railway Amendment Act, clause 18. This is the form in which the compensation clause would have been put, if there had been one:—

"In determining the compensation to be paid for lands taken from or damage sustained by the owners of or parties interested in any lands taken, used, or temporarily occupied for the purpose of any such railway, or injuriously affected by the execution thereof, the enhancement by such works or undertakings of the value of other lands of such persons respectively, or as regards such land so injuriously affected, of the value thereof, in any other respect than that in which such injury is sustained, shall be taken into consideration in reduction of the amount which would otherwise be awarded.'

That would have been the compensation clause, had there been one. I would ask any hon. member whether arbitrators would have awarded anything to Dr. Hobbs under a clause like that? I have shown by his own figures that the advantage to himself was enormous, and the advantage to the subsequent proprietors has been a great deal more. And on what possible grounds can the Government of the country be asked to give compensation to Dr. Hobbs? It is admitted that his claim, if he has one, is for improvements made to benefit the city of Brisbane; therefore he should seek compensation from the municipality of Brisbane. Why should the general revenue compensate Dr. Hobbs for injury done to him by the people of Brisbane? If the people of Brisbane, knowing him and liking him—because he is a general favourite—do not see their way to putting their hands in their pockets and compensating him for the injury he has suffered, through benefits derived by them, how can they possibly expect us to put our hand in the pocket of the State and pay him out of the general revenue of Queensland, which never derived any benefit at all?

The COLONIAL TREASURER said: Mr. Speaker,—I think both sides of the House will admit that this is a most inconvenient and inopportune time to bring forward this claim. Just when we are proposing new taxation, we are asked to provide a considerable sum of money in settlement of an old claim; and I must say that I regret the claim has arisen at the present time. But still I am rather inclined to face the question now than postpone it, as I see it is likely to be postponed unless some definite conclusion is arrived at by the House with regard to the claim. It has been continually presented to the Chamber, and no definite conclusion has yet been arrived at. I think it is better we should face the matter boldly, and see whether any substantial injustice has been suffered by Dr. Hobbs. If so, let us admit our responsibility and settle the matter, instead of leaving it open any longer. The hon. member for Mulgrave, in his speech on the question in 1882, admitted that Dr. Hobbs had been injured by someone; though he then thought, as he does now, that the claim should be made against the citizens of Brisbane. Now, the root of the whole question is—Has Dr. Hobbs received any injury?

The HON. SIR T. McILWRAITH: Has the proprietor of this land in Queen street received any injury

The COLONIAL TREASURER: I am coming to that. The first question is—Has Dr.

Hobbs received any injury? If he has, as we have taken away his right of appeal to the municipality, it is our duty to face our own wrong-doing, and make such compensation to Dr. Hobbs as he would have had a right to claim from the municipality who inflicted that injury, and redress from whom he was prevented from obtaining by our action. Now, these matters can best be determined in committee; and it is better, as I said before, that the question should be boldly faced at the present time. Whether the property has now attained a value surpassing all anticipations has nothing to do with the question, because Dr. Hobbs has ceased to be beneficially interested in the property.

The HON. SIR T. McILWRAITH: I spoke of its value two years before it was sold by Dr. Hobbs.

The COLONIAL TREASURER: By the injustice committed—I am taking the hon. member for Mulgrave's own admission, in 1882, that Dr. Hobbs received an injustice—he was forced to part with his property; but had he been able to keep it longer its increased value might have been sufficient compensation. Unfortunately, however, he could not hold the property, and therefore we have no right to look at the increased value as a set-off to the equitable and moral claim he has against someone. Who that someone is we must determine. If legislative interference had not protected the municipal council there would be no doubt who that someone was. I intend to vote for going into committee; though I am not wedded to £5,000 or indeed to any particular sum. I will not express my opinion here as to the amount; but we should face some amount, and settle the claim definitely. I do not think, by so doing, I lay myself open to any charge from the other side of not dealing with this question consistently with my action regarding the Canning Downs lands. There is a marked distinction between the two cases. We had not committed ourselves to purchase the Canning Downs lands. The proposition submitted this session differed in a variety of details and general complexion from the proposition I voted for on a former occasion. No one would suffer injustice because we declined to buy the Canning Downs lands, and we were, therefore, entirely free to adopt a fresh departure; but in this case both sides have agreed, notwithstanding the difference of opinion, that Dr. Hobbs did suffer injury. I therefore say, let us boldly face our position and see what the value of that injury is. I trust the motion will go into committee, and that it will be settled this session, so that it may not come up at any future time to perplex hon. members.

Mr. SCOTT said: Mr. Speaker,—I have gone into this matter closely at different times, and the more I consider it the more convinced I am that Dr. Hobbs has been seriously and grievously injured, and that he is entitled to compensation from someone. I do not intend to make a long speech, or to deal with the question from a sentimental point of view, though a good deal could be said in that way, but I will put before the House one or two points that may assist hon. members in coming to a decision. Shortly after these so-called improvements were carried out by the corporation, Dr. Hobbs was forced to pull down certain houses. They were two very nice houses, situated on his land at Petrie's Bight, producing a rent of £240 a year. Those houses cost about £2,000 to build, and when they were pulled down Dr. Hobbs lost the interest on his money in losing the rent he formerly received for those houses. That loss forced him to part with the land at a very great sacrifice. Most of the calculations made by the leader of the Opposition were based upon evidence given in 1876, but if hon. members will turn to the evidence given in 1879 they will find that those calculations were very much exaggerated. I will just read one clause of the evidence by Dr. Hobbs:—

"Have you anything to submit to the committee, in addition to the facts stated in the petition you have sent in? I have to state this:—That I petitioned the Legislative Assembly three years ago to inquire into my claim, and that in consequence of the exaggerated valuation placed on my land by the valuers who gave evidence before the committee then appointed, that committee was led to believe that I should not be a loser, but rather a large gainer, by the corporation works. Three years have now passed away, and I have since ascertained that there was no foundation in fact for the great prices put on my land. I have ascertained that the adjoining allotment to mine was sold six months previous to the sitting of the committee, and realised something less than £15 a foot; and that twelve months ago, at a Government land sale, allotments on the other side of my ground were sold at prices, the highest of which only realised £17 a foot; so that I am inclined to believe that the committee which sat in 1876 were misled by these valuations, and consequently could not see that I was entitled to any compensation."

These facts can be ascertained by anyone interested; in fact, further on in the evidence it will be found that the highest price realised for any of the allotments was £17 a foot.

The HON. SIR T. McILWRAITH: What did he get for the land?

Mr. SCOTT: I cannot state what the land was sold for, but I know it was sold at a great sacrifice, and that the loss was brought about by the action of Parliament in 1864. Every one who spoke when the question was last before the House, either in favour of the claim or against the claim, stated that Dr. Hobbs had sustained a very great loss. It is not worth while going over all the different speakers, but each and all were of that opinion. Mr. Griffith spoke; the Colonial Secretary (Sir Arthur Palmer), who was chairman of the committee in 1876, which brought up a report not stating that Dr. Hobbs was entitled to any compensation, on that occasion said that it was one of the hardest cases of the kind he had ever heard of, and that he should be exceedingly glad if it could be shown how the Government could move in the matter. Mr. Beattie spoke in the same way; and Mr. Miles, though opposed to going into committee, said that Dr. Hobbs had suffered great injury. Mr. O'Sullivan, Mr. Thompson, Mr. Rutledge, and Mr. Brookes all spoke to the same effect. In fact, all were of opinion that Dr. Hobbs had sustained a great injury. Now, I take it that when a man has sustained an injury in a British community he is entitled to compensation in some shape or other. Dr. Hobbs brought the matter before the highest tribunal in the land—the judges of the Supreme Court—but by the Act of the Legislature in 1864, repealing the compensation clause of the Act of 1858, Dr. Hobbs was adjudged to be not entitled to compensation. Consequently the only tribunal to which he could appeal was the tribunal to which he has now submitted his claim—the tribunal which cut the ground from under his feet and prevented him having any chance of getting compensation from the corporation of Brisbane. I do not know that it is any use to dwell upon the matter. I think, as I have already said, that where a man sustains a grave injury he ought to be entitled to be compensated for that injury by someone. If it can be shown to me that the corporation of Brisbane can be forced into compensating Dr. Hobbs for the injury done him, then I have no more to say on the subject; but if, as the highest judicial authorities in the land have stated, he cannot recover damages from the corporation, then I say he is entitled to compensation from

this House, as the representatives of the people passed the Act under which he has suffered that injury.

Mr. MOREHEAD said: Mr. Speaker,—I have also made this interesting question my study since 1876, and I quite agree with the Colonial Treasurer that it is time we got rid of it; but I do not propose to get rid of it in the same way as the Colonial Treasurer proposes to get rid of it—by putting an extra charge upon the people. I do not propose to grant, nor shall I in any way assist in granting, the sum of money mentioned in the motion to Dr. Hobbs. I hold that he is not in any way entitled to it, and that it is very unfair for hon. gentlemen, like the hon. member for Leichhardt who has just sat down, to influence this House by sympathetic arguments. No one for one moment denies that Dr. Hobbs is a very deserving colonist, perhaps one of our most deserving colonists; but at the same time that is no reason why we, as representatives of the people, should put our hands into the pockets of the taxpayers in order to give a sum of £5,000 to a gentleman who, I maintain, is in no way entitled to it. I think that every hon. member who will read the evidence taken before the select committees to whom this claim was referred must arrive at the same conclusion as the leader of the Opposition. So far as my sympathies go, I am with Dr. Hobbs; but so far as my duty goes as the representative of a constituency of this colony, I am against Dr. Hobbs. And even if there were a colourable pretext for his claim, which I maintain there is not, this is the worst time of all othe rs to bring forward a motion such as that now before the House. We have not, I believe, an overflowing Treasury at the present time. A great deal has been made of the assumed fact that there was some omission, some error of omission or commission, made by the framer of the Municipal Institutions Act of 1864, upon which this claim is based. Now, if I am not in error, Dr. Hobbs was a member of the Legislature at the time that statute was passed—he was, in fact, one of the constructors of the Act as passed by both Houses of Parliament. Indeed, I am sure he was a member of the Legislature which passed that Act. But now, when he finds it does not suit his convenience, it is an obnoxious measure to him, and he wants compensation from this House. If, as I have pointed out, he was a member of the Legislature when the Municipal Institutions Act became law, then surely his argument is swept from under his feet. Dr. Hobbs must have known, or should have known, the powers that that law put into the hands of the municipal council, and by the exercise of which he has suffered. If he did not, he cannot now plead ignorance of the law as a reason why he should be granted compensation. If he was ignorant of what he ought to have known, he deserves no sympathy or compensation from this House. It is almost indecent on the part of the junior member for North Brisbane to come down to this House, almost with tears in his eyes—no doubt having listened to his illustrious fellow-violinist last night—and ask us to rob the taxpayers to compensate Dr. Hobbs for an imaginary injury—an imaginary injury so far as this House is concerned. Dr. Hobbs, in the first instance, never thought of appealing to this House, but appealed to the municipal council of Brisbane. Finding he was defeated there on a point of law—which, to my mind, showed that he had no right whatever or any show of justice in regard to this claim—he appealed to this House, and appealed *ad misericordiam*. He, in effect, said, "I have made a mistake and misinterpreted the law as it stood, and I wish you, hon. gentlemen of Parliament, to compensate me by giving me the sum of £5,000." That is the position taken up by Dr. Hobbs—a position which, I hold, is altogether untenable, and should not be recognised by this House. I daresay that some hon. members do feel a certain amount of sympathy for Dr. Hobbs, which warps their judgment. In 1876 I was on the select committee of which Sir Arthur Palmer was president, and I, with others, gave this matter my serious consideration, and certainly not with any prejudice against Dr. Hobbs, but rather the other way, and the decision we arrived at is recorded in the report submitted to the House in 1876. Matters have not changed since then—no fresh evidence has been given; and I think the House will not stultify itself by putting on the Estimates, or attempting to put on the Estimates, a sum of money to which the applicant, Dr. Hobbs, is in no way entitled. If this principle is to be carried out—that because a man is ignorant of the law under which he holds property, and he suffers an injury through that ignorance, he ought to be compensated for his ignorance by this House—a pretty state of affairs will prevail. I shall resist this motion on the grounds I have stated to the House, and I shall vote against it to-night. If the matter goes into committee and the amount gets placed on the Estimates, I shall try to prevent it then. I do hope the House will not agree to this motion of the junior hon. member for North Brisbane. I am inclined to deal with the motion as I once proposed to deal with the petition of Mr. Nehemiah Bartley. I said, on one occasion, it would be better to give Mr. Nehemiah Bartley a certain sum of money on condition that he would give us a distinct promise that he would leave the colony and never come back again. If Dr. Hobbs will accept, say a sum of £300, and give us an undertaking on those lines that he will leave the colony, I may be disposed to agree to voting that amount. If he does not do that, I am afraid this nuisance will continue. This petition of Dr. Hobbs is served up to us, session after session, and I hope, as I have said, that there will be finality on this occasion; but not finality in the direction indicated by the Colonial Treasurer, which will entail a tax upon the taxpayers of the colony.

Mr. MACFARLANE said: Mr. Speaker,—This is an old friend before the House at the present time. This is about the third time we have had it, and I think I have voted on it on two occasions, and will, very likely, vote upon it again. I daresay that everyone sympathises with Dr. Hobbs. No doubt he has had a loss; but, as the hon. member for North Brisbane said when he introduced the motion, there has been a loss sustained, and the real question is, who is responsible for the loss? It seems that the Supreme Court decided that, had there been a certain clause in the Act of 1864, the corporation would have been answerable for that damage. The next thing is, the corporation who caused the damage made such an improvement to that property that, had Dr. Hobbs retained it, instead of being a loser by those alterations he would have been a great gainer. It is not the fault of the colony that Dr. Hobbs has not retained these properties. It is his misfortune, and on that point I sympathise with him very much; but it is not the fault of the colony. The property is more valuable to-day on account of those improvements than it was before they were made. The lowering of those streets increased its value, as it was shown clearly this afternoon that it was worth £15,000 more after the improvements were made than before. If that be so, why should we sympathise with the original holder of these properties? It does not appear to me that Dr. Hobbs has the least claim upon the consolidated revenue of the colony for

compensation for the loss he has sustained. If there be anyone responsible it is the Brisbane Corporation, and if the Brisbane Corporation got out of it through some clause not being in that Act, then Dr. Hobbs must suffer the loss. The country cannot suffer the loss; and I hope that no hon. gentleman will be intimidated by any remarks made by the Colonial Treasurer or the Premier in the beginning of the debate, signifying that they approved of the resolution so far. If this House votes this sum of money, what will be the consequence? There are other properties damaged in the same locality. I have passed up Adelaide street, and have seen houses actually buried beneath the footpath, and there is no reason why the owners of those properties should not come down to this House and demand compensation if we give Dr. Hobbs compensation for an injury sustained ten years ago. I warn the House to be careful, because if this compensation be given, there will be such a number of claims as will, perhaps, astonish the Colonial Treasurer. Therefore, I hope that instead of going into committee the House will put down its foot at once, and prevent for ever these motions from coming before us. I think, with the hon. member for Balonne, that it is not decent after a motion has been refused by the House over and over again, to come up here, year after year, with it. It is something like the importunate widow going to the unjust judge, thinking, by troubling him constantly, she would ultimately get something. That seems to be the policy of some hon. gentlemen, and I trust the House will put its foot upon these resolutions, and not go into committee, but decide the case at once.

Mr. BEATTIE said: Mr. Speaker,—The hon. gentleman who has just spoken evidently did not pay much attention to the evidence that was given to the committee which sat to inquire into the matter now before the House. I may say that I was a member, with Sir Arthur Palmer and the hon. member for Balonne, of the first committee that sat upon this case, and the report we brought up was to the effect that we agreed thoroughly that Dr. Hobbs had been very seriously injured; but we did not see that we could make a recommendation to the House, and threw the responsibility upon the House. The hon. gentleman who has just sat down showed what I may term ignorance of the whole question; because, if he had known the locality as well as I do, he would not have made the remarks he has made. Dr. Hobbs, I believe, bought this property at auction in 1852 or 1853, and in 1858 the Municipalities Act was adopted in Queensland. In that Act there was a compensation clause.

Mr. ALAND: The first Parliament of Queensland met in 1860.

The PREMIER: The Act was passed in 1858, in New South Wales, and adopted in Queensland afterwards.

Mr. BEATTIE: In that Act there was a compensation clause. This alleged injury did not take place until 1873, when the corporation began to make the improvements round Petrie's Bight. Everyone who knows that locality knows that Dr. Hobbs's houses were very attractive indeed, and were in a very nice position. There was a good road up to both of them; but when the corporation commenced to make their improvements they left them some sixteen or seventeen feet above the street and made no approaches whatever. They simply made a perpendicular cliff in front of them, and left them perched upon the top of a hill. I agree that the corporation were to blame for the action they took; but, talking about the improvements to the property, do hon. members know the value of property in those days in that locality? The fact of the matter is, nobody would look at it. The first improvements in Petrie's Bight were commenced by myself. I had taken a lease of a piece of land in 1870, and commenced to build wharves in front of this very locality, and it was the building of the Commercial Wharf round there that added to the value of the land in that vicinity; but the cutting away of this land in front of Dr. Hobbs's, and taking the road away, simply was a loss to him of something between £200 and £300 a year for rent. That rent, I presume, enabled him to meet any claims there might be against his property; but the road was taken away, and for three years, I believe, these houses remained totally useless to Dr. Hobbs; and we know very well that property left without protection does not increase in value; and the houses very soon became dilapidated and were totally unfit for the purpose of residence, and were pulled down. I remember myself the corporation having been asked by Dr. Hobbs to simply excavate the hill immediately in front, and he would be quite willing to let them have it at a price. But that was not the only injury that was sustained; the Queen-street property at that time was much more valuable. That particular portion of the property was not looked upon as very valuable, because those who remember what the road was like round Petrie's Bight in 1865 know that it was simply a narrow track, and it was only by cutting away a portion of the hill on the western side of the road, and putting it over on the eastern side towards the river, that they were enabled to make a wide road. When the corporation decided to go in for that they totally destroyed the property there. I have always been of opinion that when the many have been benefited at the expense of an individual they should pay compensation, and the corporation should have paid compensation to Dr. Hobbs. They refused to recognise the claim of Dr. Hobbs for compensation for damage done to his property, because there was no clause providing for compensation in the Act of 1864. There were two or three extraordinary omissions in that Act. I am sorry the hon. member for Balonne was not here to hear the statement made by the mover of the motion. On the passing of that Act of 1864, I remember well the question being asked in this House of the then Attorney-General, the Hon. Ratcliffe Pring—who is now no more—who framed that law;—he was asked if it was a fac-simile of the Act of 1859, and he answered that it was nearly a verbatim copy of that Act. The hon. member, Mr. Brookes, told us this afternoon that when the matter was brought before the Upper House the Hon. John Bramston, then Postmaster-General, had his attention drawn to this very matter by Dr. Hobbs. This is the first time I heard of that. Dr. Hobbs, the hon. member has told us, asked if the Act provided for compensation to individuals who might be injured by the alteration of streets in a municipality, and the then Postmaster-General's answer was that such a clause was in the Bill. The hon. member for North Brisbane has just placed in my hands a document bearing out the statement I have made. That is how the injury arose. I do not sympathise at all with the corporation, because I think they should have compensated Dr. Hobbs, and should not have made one individual suffer for the general benefit by taking advantage of the omission of the compensation clause from the Act of 1864. There was certainly very great negligence—I can call it nothing else—in those days in this matter. There were one or two other things omitted from the Municipal Institutions Act. I will point out one or two things which, though perhaps foreign to the

subject, will show the House that there was negligence on the part of the Legislature in the passing of the Act of 1864, and I mainly blame the officer who had charge of the Bill for it. Hon. members who have been some time in Brisbane will remember an action which took place, and in which I was myself interested, in connection with this very Municipal Institutions Act. In 1870 I took a piece of land from the corporation on an improving lease ; and in 1872 or 1873 I was proceeded against as a contractor—I was an alderman at the time—I was proceeded against for being a contractor under the Municipal Institutions Act, and therefore unable to sit as an alderman. I examined the Act. I knew very well that in the Act of New South Wales and in the Act in England there was a declaratory clause declaring the meaning of certain words. What was the consequence? That very declaratory clause was omitted from the Act of 1864. That clause was omitted, and the compensation clause was also omitted; and therefore I say that there was negligence and very great carelessness on the part of those who introduced the Act and omitted those two clauses, the omission of which certainly interfered with the liberty and rights of the people. That is the only reason why I think this House would be justified in giving something in the shape of compensation to Dr. Hobbs for the injury he has sustained ; otherwise, I believe it was the duty of the municipality of Brisbane to give that compensation, and I believe they acted very illiberally indeed in not doing so. Taking the view that the Legislature was guilty of very great negligence in omitting from the Act these two clauses dealing with the rights of the people, I think there is a certain amount of responsibility upon the Legislature to take this matter into serious consideration, and it is a justification for asking that they should give some compensation in the present case. I am not going to say how much that compensation should be, but I will support the hon. member's motion, reserving to myself the right, if we get into committee, to discuss the amount which ought to be asked for.

Mr. FERGUSON said : Mr. Speaker,—It is quite evident to me, from what I have heard of this case, that it is one which never should have come before this House at all. If Dr. Hobbs has any claim at all it is against the corporation of Brisbane. Even the last speaker, who spoke very favourably of this claim, admits that the corporation should have settled it. If there is an injustice done in this case—and I do not think that has been proved—those who have inflicted the injustice should be the persons to settle it. It will not be a proper settlement of the case to ask for a sum of money, through this House, from the taxpayers of the colony, who have had nothing whatever to do with the injury committed. The corporation must carry out improvements and form streets, and the improvements made by corporations increase the value of property. I am quite satisfied that if the street around Petrie's Bight was not cut down by the corporation the property would not be worth one-tenth of what it is worth now. If the corporation of Brisbane had left only a narrow street there, the traffic would have gone in another direction and the land would never have increased in value. The corporation, by cutting down the street, improved the value of the land enormously, and I am informed that at the first sale of land made by Dr. Hobbs himself he got a much higher price for it than he would have got if the street had not been cut down. When this land was purchased it was purchased with the knowledge that there was a street surveyed in front of it. No doubt the street was surveyed before the land was bought, and any sensible man would know that some day or other that street would have to be cut down to enable the traffic of the city to be carried on. Any prudent man would have kept his house away from the edge of the street. As far as I understand, Dr. Hobbs built his house at the very edge of the surveyed street, so that whenever the inevitable cutting took place it must necessarily be damaged. If a claim like this is once admitted scores of similar ones will be made throughout the colony. At present, no member out of Brisbane would dare to bring forward such a claim. In other places the corporation has to pay for any damage that is inflicted. As a rule, public improvements tend to increase the value of property, but if any real damage is done the corporation pays for it. In this case the taxpayers of Queensland are asked to pay a sum of money which the ratepayers of Brisbane are entitled to pay ; and, as I said before, it is only a claim from the city of Brisbane that would be listened to for a moment in this House. There is no doubt that Dr. Hobbs is a favourite among the people of Brisbane, and that is the chief cause of the claim coming up so often. It was before us in 1882, but the House would not allow it to go into committee. I trust the motion will meet with the same fate on this occasion. I am certain that even if it goes into committee it will never be passed, and the matter might be just as well stopped at once.

Mr. JORDAN said : Mr. Speaker,—I have listened attentively to the arguments on both sides, and I have come to the conclusion, in the first place, that Dr. Hobbs has suffered an injury. That has been made very clear indeed to my mind, particularly by the speech of the hon. member for the Valley, who has shown distinctly that although other properties within the municipality have benefited by the making of this street yet that this particular property belonging to Dr. Hobbs, having been left high up on the top of a cliff, never benefited at all. I listened carefully to the speech of the leader of the Opposition to persuade myself, or to come to the conclusion, that buildings left on the edge of a cliff, without any approaches to them whatever, would be benefited by the cutting down of a road which caused them to tumble down into the road so made, but I could not see it—at that time, at all events. Whatever benefit may have accrued to that property after the lapse of years by reason of its increased value, the immediate consequence was that the owner of it suffered very great damage. The second question is—Who is liable for the damage sustained? The judges found, I think, that the owner of the property had suffered damage, but that in consequence of something or other he could not come upon the corporation. That settled that matter, I suppose, because, as has been said, corporations are men without bodies to be kicked, and the rest. The corporation, having no responsibility in that sense, got out of it simply ; still the damage remains—the judges have said so—and to whom is the sufferer to look for compensation? How did it occur that the corporation got out of it? They got out of it by an accident—if you like to put it so. An omission was made in the Municipal Institutions Act of 1864—the omission of a compensation clause. This curious circumstance was mentioned by the hon. member for North Brisbane : When that Act was in course of preparation the gentleman who had charge of its preparation was reminded that there should be a compensation clause introduced into it, and he signified his intention of putting it there ; and the gentleman who called his attention to that is the gentleman who in the lapse of years is the sufferer from the omission of that compensation clause. We have it before

us—as stated by the leader of the Opposition—that in Railway Acts, and in other Acts for the improvement of public property, a compensation clause is, as a matter of course, always introduced. In the Victoria Bridge Act there was a compensation clause by which a person received £250 because his property was left one step higher out of the road than it was before, and another person, not very materially damaged, received compensation to the amount of £500. I hold with the hon. member for North Brisbane that the omission of that compensation clause was a serious defect in the Act, and some individual or body is responsible for that mistake—that egregious blunder. Thus we get to the Parliament of Queensland. It was they who made that gross omission—in the first place the gentleman who had it in charge to prepare the Bill, and in the second place this honourable House. It is contended that it would be an unfair thing to dip our hands into the pockets of the taxpayers to make them pay for what the Brisbane Corporation ought to pay. But the corporation have got effectually out of it, and it comes back to us. The hon. member for Balonne contended that it would be unjust to make the taxpayers lay down the money, and the hon. member for Ipswich contended that if we did so many other claims of the same nature would arise. We are not to do right for fear other persons should want justice done to them! I say, let us do right though the heavens should rush down! If the corporation cannot be made responsible—if the blunder was with this House—then I say we are bound to ask the taxpayers to pay for the blunder which this House has made, and which has caused this loss that Dr. Hobbs has sustained No honest working man would refuse to pay 4d. a head for the whole population of the colony to do right. It is simply a question of justice to my mind. I am certain that in Brisbane the working men would not refuse if an appeal were made to them on the ground that the Parliament of Queensland had refused this act of justice. I shall certainly vote for going into committee, and unless any further reasons against it are shown I shall vote for the sum of £5,000. Dr. Hobbs lost that property because he could not pay the interest on the money advanced upon it, and before property so increased in value he had to submit to the foreclosure of his mortgages. That was the result—entirely the fault in the Municipal Institutions Act of 1864. It was because this House did not do its duty; because they omitted that most essential clause, making an Act, as my hon. friend says, that was not in accordance with English law—I say it was in consequence of that that Dr. Hobbs lost his property. Had it not been for that blunder committed in this House, he would now be a very wealthy man, and on these grounds I shall certainly support the motion of the hon. member for North Brisbane.

Mr. BROOKES said: Mr. Speaker,—I have not got much to say in reply, because it seems to me that the hon. the leader of the Opposition, the hon. member for Balonne, and the hon. senior member for Rockhampton, do not seem to understand the merits of this matter at all. I have been charged with having brought it sentimentally before the House. If I did so, Mr. Speaker, I apologise to the House. I did not present the case to the House on the ground of sentiment, or pity, or compassion, but, sir, on the ground of naked justice. Loss has fallen upon this man, by the admission of three select committees of this House, followed by the distinct statement of the Chief Justice of Queensland, that had it not been for the omission of the Legislature he could have granted the plaintiff a verdict against the corporation. Could anything be plainer? Why need I, Mr. Speaker, plead for Dr. Hobbs on the ground of sentiment? I do not wish to represent the matter on any such misleading influence. I go for justice. I go for the honour of Parliament. That is what I go for. It may be as well to remind hon. members that whatever may be said about the since value of this property—the largely increased value of it since it has left Dr. Hobbs's hands—that is altogether beside the mark. But what surprises me more than anything is that all hon. members who have spoken on the opposite side of the House go back to the corporation and say that the liability should be fastened on them. If I have been charged with putting the case on sentimental grounds, do they think that the corporation of Brisbane will give Dr. Hobbs anything in the way of compensation for his losses from any sentimental motive? Was there ever a corporation that did such a thing? I have never heard, and I am sure you have not, Mr. Speaker, of any corporation that has paid a claim that could not be enforced by law. And that is the only reason——

The HON. SIR T. MCILWRAITH: In what way does Parliament differ from a corporation?

Mr. BROOKES: I will endeavour to show the hon. member. I hope he will understand me when I say that I really think I can instruct him in this matter. Here is an individual sustains a loss; the immediate agent of that loss is the corporation—just as cows or goats might ravage a beautiful garden. When application is made to them to repair the damage, that application is just as successful as if made to cows or goats to repair the damage done to the garden; and what do they say? It does not matter what they say, but what does the Chief Justice—one of the judges of the colony—say? That is the way I put it to the leader of the Opposition—that a claim would lie against the corporation, as a corporate body, for damage done to private property were there only a compensation clause in the Municipal Institutions Act of 1864. There would have been none of this trouble if that clause was in that Act. The judge says so. The answer to the hon. the leader of the Opposition comes from the lips of the Chief Justice of the colony. He said, "I do not find any compensation clause"; and that it was for the Legislature to put one in. It was for the Legislature to see to that—to see to the consequences which would ensue from the absence of such a clause. Now, Parliament is a corporate body. Injury has been done to a private individual through the neglect of this corporate body—this Parliament; and this Parliament is the highest court in the realm. This, sir, is the place to which we come to have grievances redressed when we fail everywhere else; and if you cannot have grievances such as these redressed by Parliament, then I say, woe to the Parliament! It has lost its character as a British Parliament, for there never was a case yet presented to any British Parliament for the redress of a grievance that was proved, that some steps were not taken to redress that grievance. Then, sir, what becomes of the point of the hon. the leader of the Opposition about this being a corporate body? I stand for justice on the ground that it is a corporate body; and when it is said that injustice would be done to the taxpayers of the colony by granting £5,000, or any smaller sum, surely the common sense of members of this House will rise and resist such an absurd statement. I should like to know which course of conduct is more likely to raise the Parliament in the opinion of our working men—to say that it refuses to redress a grievance or to see it acknowledged after fair deliberation—

not hastily, not on sentimental grounds—or after fair deliberation to come at once to the redress of that grievance in a reasonable and equitable way. According to the speech of the hon. member for Balonne, he would adopt a course of action that would degrade Parliament in the opinion of the taxpayers. They would say, "We cannot get justice from the Supreme Court, because Parliament has blocked the way." It was the Parliament of 1864 that prevented the Chief Justice from according a right verdict to Dr. Hobbs in 1874. Nothing stood in the way but the omission of this clause. Mr. Speaker, every unprejudiced member of Parliament says the same thing; then why enlarge upon this? The senior hon. member for Rockhampton said that if this claim were admitted the House would be flooded with similar claims. I should like to know what shadow of foundation there is for such a remark. There is not the least, because, mark you, this omission — this fatal flaw, rendering the Act of 1864 an imperfect, inequitable, un-British, and utterly unconstitutional Act—this flaw was found out eleven years afterwards, and four years after that it was remedied. I would remind the senior hon. member for Rockhampton of that; and I do not think Rockhampton was much of a place in 1874, or 1878 either. The argument of the hon. member for South Brisbane is the only one that has the true British ring in it. Let us do justice! If claims come in as thick as—like crows, what have we to do with that? We stand to do what is right, sir. And now with reference to this matter, I do feel that there is some measure of justice in what was said by the hon. the Colonial Treasurer. I have named £5,000 in the motion because that was the estimate put down by two select committees of the House. That is my only reason for having named that sum, and if this House in committee fixes the amount at less than that I shall have nothing whatever to say. All I want—all I seek—let it be clearly understood by the House and the colony—is an acknowledgment from this Parliament that the Parliament of 1864 made a great and grievous mistake, the like of which is not likely ever to be again committed.

Question put, and the House divided:—

AYES, 14.

Messrs. Rutledge, Griffith, Dickson, Fraser, Brookes, Isambert, Jordan, Sheridan, Kellett, Aland, Beattie, Scott, Foxton, and Wakefield.

NOES, 25.

Sir T. McIlwraith, Messrs. Archer, Black, Chubb, Miles, Donaldson, Dutton, Moreton, Higson, Ferguson, Palmer, Lissner, Govett, Wallace, Campbell, Jessop, Nelson, Lalor, Stevenson, Macrossan, Mellor, Salkeld, Morehead, Macfarlane, and Horwitz.

Question resolved in the negative.

CHARITABLE INSTITUTIONS MANAGEMENT BILL — CONSIDERATION OF COUNCIL'S AMENDMENTS.

On the motion of the PREMIER, the Speaker left the chair, and the House resolved itself into Committee of the Whole to consider the amendments of the Legislative Council in this Bill.

The PREMIER said the Legislative Council had made two amendments in the Bill. One was the transposition of clauses 6 and 7, and the other was the addition of a proviso in the clause which now stood as clause 7. That clause empowered the curator to manage the estates of inmates of asylums for the reception of indigent persons, and enabled him to appropriate a sufficient amount of the property of any inmate to defray the cost of his maintenance. The proviso added by the Council was to the effect that "the powers conferred by this section shall not be exercised without the consent of the inmate, except so far as may be necessary to provide for the cost of the maintenance of such inmate in the institution." He saw no objection to that. It was not desired to squander the property of an inmate; but where an inmate was able to pay the cost of his maintenance he should be made to do so. He moved that the amendment in clause 6 be agreed to.

Mr. CHUBB said it might be necessary in some cases that the curator should have power to act, even without the consent of the inmate, in order that the property might be kept in such a condition as to maintain the inmate. He, therefore, moved that the words, "and the due preservation of such property," be added to the proviso inserted by the Council.

The PREMIER said he had no objection to the amendment.

Amendment put and passed.

Question—That the Council's amendment, as amended, be agreed to—put and passed.

The PREMIER moved that the other amendments of the Legislative Council be agreed to.

Question put and passed.

The House resumed, and the CHAIRMAN reported to the House that the Committee had agreed to one amendment with an amendment, and agreed to the other amendments of the Legislative Council.

The report was adopted, and the Bill was ordered to be returned to the Legislative Council, with a message intimating that the Assembly had agreed to one amendment, with an amendment, in which they asked the concurrence of the Council, and also to the other amendments.

LOCAL GOVERNMENT ACT OF 1878 AMENDMENT BILL.

On the motion of the PREMIER, the Speaker left the chair, and the House went into Committee to consider the Legislative Council's amendments in this Bill.

The PREMIER said there were two amendments made by the Legislative Council in this Bill, the first of which limited the period for which the postponement of the commencement of payments of the annual instalments might be made to five years. He thought it was inconvenient to mention the term of five years for two reasons—first, because that term might be looked upon by municipalities as the normal term for which the postponement should be made, and in most cases that would be too long a period, though it was possible to conceive of cases in which it would be too short; and secondly, it was open to the serious objection that this was entirely a matter of revenue, and it concerned the Assembly alone when the payments came into the Treasury. For those two reasons he thought that the amendment should be disagreed to. The other amendment was in clause 5, and provided that any surplus revenue derived from waterworks must be applied either in the extension of the waterworks or in the reduction of the loan. He did not see any reason why, if a corporation had waterworks and derived a large profit from them, that profit should not be applied to the general purposes of the municipality. Why, for instance, should a corporation which had waterworks, and paid its annual instalments easily, and had a large surplus, not be allowed to apply that surplus to building a town hall or to carrying out drainage or any other necessary works? He saw no reason at all why corporations should not have that power. The Government did not insist on the loan being paid off; they were contented to get their 5 per cent.

interest per annum, and get the principal paid off in the usual time. He therefore proposed to ask the Committee to disagree with both the amendments. He now moved that the Legislative Council's amendment in clause 4 be disagreed to.

Mr. FERGUSON said he quite agreed with the Premier's view of the first amendment; but he thought that the amendment of the Legislative Council in clause 5 was a very good one. They knew that the revenue from waterworks was not the general revenue of the municipality. It was only the people who used the water who contributed it, and he could not see why a rate levied upon a few people, if there was any surplus, should be applied all over the municipality. It should go towards either reducing that rate, or towards reducing the loan on account of the waterworks. It would not be fair to spend the money which was raised from only a few of the ratepayers, all over the municipality, because the whole of the people would be benefited by money collected from a few—or a part at least—of the ratepayers. In the town he represented the water was not used all over the municipality, and the corporation would have power to charge a high rate to the consumers, and then if there were any surplus it might be applied to making streets, etc., in parts of the municipality where the people did not contribute towards the waterworks. He was surprised that he had not noticed the point when the Bill was going through the House. The amendment of the Council was a very proper one.

The PREMIER: That is not the amendment before the Committee at present.

Question put and passed.

The PREMIER, in moving that the amendment of the Legislative Council in clause 5 be disagreed to, said he had already urged his reasons for doing so; but as he was really only addressing the hon. member for Rockhampton when he spoke, there being so few members in the Chamber at the time, he would repeat what he had said. He did not see any reason why, in the case of waterworks belonging to a municipality, the municipality should not be entrusted with the discretion of saying how they would spend that surplus. If it were desirable to spend it in drainage works, or any other works not properly belonging to waterworks, he did not see why they should not be entrusted with the expenditure. The waterworks were a commercial speculation in one sense. It might be said, as the hon. member for Rockhampton suggested, that water rates were raised from only a portion of the ratepayers. So they were; but he thought that if there were a surplus in the water rates, the local authority would not be long in reducing those rates unless there were a very good reason why they should not. They might be trusted to that extent.

Mr. FERGUSON said he only rose to repeat the arguments he used before. It was a charge upon a certain portion of the ratepayers—simply the people who used the water. They had to pay the whole of the revenue of the waterworks, whatever it might be, and if there were a surplus, as there was supposed to be, what would prevent that surplus going towards making streets or roads in any other part of the municipality? Why should not that surplus go towards reducing the water rates, or reducing the loan? It was very unfair to give the municipal authorities such a power as that—to use the water rates for any purpose they liked. It was a very wrong power, and he quite agreed with the amendment of the Upper House.

The HON. J. M. MACROSSAN said he thought there was a great deal of force in what the hon. member for Rockhampton said. But he would ask the Premier whether the municipality as a whole was not responsible for the debt owing on the waterworks?

The PREMIER: Yes.

The HON. J. M. MACROSSAN: Then that is an argument on the other side.

Question put and passed.

The House resumed; the CHAIRMAN reported that the Committee had disagreed to the amendments of the Legislative Council, and the report was adopted.

The PREMIER moved that the Bill be returned to the Legislative Council with a message intimating that the Legislative Assembly—

Disagree to the amendment of the Legislative Council in the 4th clause, because it is not expedient to fix an arbitrary limit to the period for which the time for the commencement of the payment of instalments upon sums borrowed for the construction of waterworks may be postponed.

The Legislative Assembly offer this reason without waiving their right to insist upon the further reason that the amendment relates entirely to the public revenue.

Disagree to the amendment of the Legislative Council in the 5th clause. Because if the revenue derived by the council of a municipality from waterworks is more than sufficient to defray the working expenses and pay the annual instalments payable in respect of the sum borrowed for the construction of the waterworks, there is no good reason why the surplus should not be applied for the general benefit of the municipality to which the waterworks belong.

Question put and passed.

WAYS AND MEANS—RESUMPTION OF COMMITTEE.

On the motion of the COLONIAL TREASURER, the Speaker left the chair, and the House resolved itself into a Committee of the Whole, further to consider of Ways and Means for raising the Supply to be granted to Her Majesty.

Question—

That there be raised, levied, collected, or paid upon any wines, spirit, cordial, compound, or other liquor containing a greater proportion than 30 per cent. of proof spirit, a duty at the highest rate chargeable on spirits.

That there be raised, levied, collected, or paid upon goods imported, which have been partially converted into goods which would be liable to a higher rate of duty, a duty at a rate equal to one-half of such higher rate of duty.

That there be raised, levied, collected, or paid upon goods imported which are substitutes for known dutiable goods, a duty at the same rate as that payable upon the goods for which they are substitutes, or such less rate as may be fixed by the Governor in Council.

That it is desirable that brewers be registered, and that a fee of £25 be charged for such registration.

The COLONIAL TREASURER said: Mr. Fraser,—I may say at the outset that I think it will facilitate the consideration of these resolutions if I take them separately, and I intend, therefore, to move them seriatim, and give with each resolution the reasons why it is introduced and considered necessary that it should be submitted to this Committee for approval before being referred to the House. The first resolution is to the effect—

That there be raised, levied, collected, or paid upon any wines, spirit, cordial, compound, or other liquor, containing a greater proportion than 30 per cent. of proof spirit, a duty at the highest rate chargeable on spirits.

I will commence by saying that I wish it to be understood that this resolution has no allusion whatever to wine—colonial or foreign. Although the word "wine" is used here it is simply intended to mean a compound which may and which does in fact come into the colony under the name of wines, though virtually they may be only bitters and compounds of that description. The reason why

this resolution is submitted to the Committee is this: In the Customs Duties Act of 1870—in the schedule of that Act which deals with wines and spirits—hon. members will find this paragraph:—

"Wine containing more than 25 per cent. of alcohol of a specific gravity of ·825 at the temperature of 60 degrees of Fahrenheit's thermometer, for every gallon in proportion to strength per gallon, 10s."

Ten shillings being the tariff under that Act fixed for spirits other than brandy. We find that the operation of this clause is impracticable in this colony at times, it being difficult to obtain a temperature of 60 degrees in the summer time for testing the specific gravity of these spirits. Consequently, we propose to alter the test, and instead of testing the specific gravity of alcohol contained, we intend to take a test of 30 per cent. of proof spirit, which can be ascertained without reference to the state of the temperature at the time of testing. It has been found that some colonial wines exceed 25 per cent. in strength, and hon. members will bear in mind that some of our wines have frequently been represented to be fortified, because they exhibited a strength of a very high character—in some cases attaining to 26 degrees. We have purposely altered the test from 25 to 30 degrees, so that colonial wines shall not in any way come within the scope of this resolution. The compounds which this resolution will affect are chiefly composed of tonic bitters, which come into this colony, containing 33 per cent. of proof spirit, and these, of course, will be subject to the highest rate of duty—12s. per gallon—which we propose to levy under the resolution we have passed. Then we have Chinese medicine wine, and that is one of the reasons why the word "wine" is used in this resolution. Chinese medicine wine contains 58 per cent. of proof spirit. Then there are tonic hop bitters, containing 27 per cent. of proof spirit. These, being under 30 per cent., will be charged the *ad valorem* duty; Gillon's noyeau, 26 per cent.; orange bitters, 28 per cent.; peppermint cordial, 30·5 per cent.—that will come under the category of spirits; and so on. I need not take up the time of the Committee, nor is it necessary to state the variety of brands which come into this market, and some of which contain such a very large percentage of proof spirit that they may be fairly charged for at the highest class of duties on spirit. As I stated at the beginning, I wish it to be understood that this resolution will have no bearing upon wine, but simply upon compounds such as I have mentioned, and which contain so much proof spirit that they may be justly charged at the highest rate of spirit duty. This resolution is introduced, not only on that account, but also because the clause in the Customs Duties Act of 1870, under which we now operate, is found impracticable owing to its enacting that the test must be made at a temperature which is not always obtainable in this colony. I may say this practice is in accordance with what obtains in New South Wales and Victoria. I hold in my hand replies from the Collectors of Customs in those colonies intimating that the practice is there the same as we now propose. I find that I moved the whole of the resolutions last night *in globo*, and therefore must ask permission of the Committee to withdraw them and to now move them seriatim.

Resolutions accordingly withdrawn.

The COLONIAL TREASURER moved—

That there be raised, levied, collected, or paid upon any wines, spirit, cordial, compound, or other liquor, containing a greater proportion than 30 per cent. of proof spirit, a duty at the highest rate chargeable on spirits.

Mr. BLACK: I understand that the Treasurer intends to take these additional duties seriatim. I would like to know what the reason was that the tariff we had to pass yesterday had to be swallowed as it was. Why did we not take the resolutions yesterday seriatim? I believe if the Committee had been allowed to express its opinion on the different duties separately a very different result would have been arrived at. I would like some reason why this sudden change has been adopted.

The PREMIER: For convenience.

Mr. NORTON: It would have been much more convenient yesterday.

The PREMIER: We think otherwise.

Mr. ARCHER said: Now we understand something about this matter, having heard the Treasurer's explanation; but it is quite evident that without an explanation hon. gentlemen could not have understood the meaning of the clause. As far as bitters and things of that sort are concerned, I have not the slightest objection to it. I believe myself that they are rubbish, and the less taken of them the better. I would like to know in what way the Treasurer has arrrived at the 30 per cent. standard. Is that the usual standard adopted in the other colonies, or is this the practice adopted in the other colonies? There is another question I should like the Colonial Treasurer to answer. He says that the articles he has mentioned will be charged at the highest rate to be charged on spirits. Does that mean proof spirits or spirits above proof? The highest rate to be charged upon spirits will depend upon the amount of alcohol contained in them.

The COLONIAL TREASURER: All these bitters and tonic compounds are considerably under proof, although they contain a large amount of proof-spirit; consequently they will pay the full proof-spirit duty. If they are under proof, they will pay accordingly an increased rate. In no case will they pay under 12s., but I would point out to hon. gentlemen that in the case of some combinations, as, for instance, tonic bitters, it is represented to contain 33 per cent. of proof-spirit, while it is actually 81 per cent. under proof in strength. Of course, it would be charged, not upon its strength, but upon its containing over 30 per cent. of proof-spirit. The 30 per cent. which we have arrived at has been fixed at that figure so as not to touch colonial wine, which, in some cases, exceeds 25 per cent.

Mr. SHERIDAN said: I notice the Colonial Treasurer excepts colonial wines, but I think that title is likely to be misleading. I think he should substitute the words "Australian wines," because that would be more applicable and suitable. The term "colonial wines" would extend to all the colonies and might lead to disputes.

Mr. NORTON said: I do not see any reference in the resolution to colonial wines. The Treasurer just now made an explanation about colonial wines, and there can be no confusion about that. I was going to ask the hon. gentleman whether those spirits to which he alluded would include methylated spirits. I think they would.

The COLONIAL TREASURER said: Methylated spirits are changed in form in bond, and do not enter into consumption in their pure state. The tariff with regard to methylated spirits is not supposed to come under the operation of the new tariff.

Mr. NORTON: I think it advisable that we should know for certain whether methylated spirits will be affected. The Colonial Treasurer does not think they will be, but that is hardly a sufficient answer. This is an article a very large quantity of which is used. I myself have used it

in large quantities, and it is well we should know for certain if it will be affected or not by the new tariff.

The COLONIAL TREASURER said: Methylated spirits is especially provided for in the schedule to the Customs Act, which is not repealed. There is a special rate fixed to it, and unless it is specially mentioned now it would not be charged the additional duty.

Mr. NORTON: I would ask if we are going to repeal that clause of the Customs Act, because under that clause duty is chargeable on wines over 25 per cent?

The PREMIER: No.

The HON. J. M. MACROSSAN: I did not quite understand the hon. member for Maryborough in his remarks about colonial wines. Is it the intention of the Treasurer to insert the word "colonial" in this resolution?

The COLONIAL TREASURER: No.

The HON. J. M. MACROSSAN: We have had quite a revelation to-night from the Colonial Treasurer. We can understand now how it is that sometimes the blue-ribbon men get rather shaky about the legs. The hon. gentleman has told us that tonic bitters contain 33 per cent. of alcohol, and that peppermint contains even a greater quantity. Does he intend to include ginger-ale in this resolution?

The COLONIAL TREASURER: Not unless it contains over 33 per cent. of pure spirit.

The HON. J. M. MACROSSAN: Does it contain any spirit? I want to know that for the benefit of the teetotallers. The hon. gentleman said just now, in reply to the hon. member for Mackay, that the only reason why these resolutions are to be taken seriatim to-night, while we had to swallow those presented to us last night *in globo*, is that it is more convenient to do so. I am inclined to think the hon. gentleman will after all go back upon us when the Bill gets into committee. He may find it convenient to put all the items into one clause.

The PREMIER: They will be in the schedule, and any member can move an amendment.

Mr. MACFARLANE: I observe that the resolution applies only to imported liquors. Should it not be made to apply also to those rubbishing drinks of this kind that may be made in the colony?

The COLONIAL TREASURER: This is not an excise duty; it is an import duty.

Mr. MACFARLANE: The stuff manufactured here ought to be made to pay something towards the revenue as well as the imported article.

Mr. MOREHEAD: This explanation of the Treasurer's ought to fetch the teetotallers. They have been drinking on the quiet all this time. They have been indulging in these peppermints, and orange bitters, and so forth, that have a higher alcoholic strength than any wine—no doubt with their friend, Mr. Booth. I can understand now how it is that late in the evening the hon. member for Ipswich gets so hilarious. He has been imbibing those innocent beverages which we find to be not so very innocent after all, and which certainly ought to pay duty. But I hope that will not prevent the hon. member for Ipswich from still taking his bitters. It would be a sad thing if that last plank was knocked out of his platform, and he had to fall back on the water that he boasts so much of, but of which he evidently does not partake himself. I see the hon. member for Toowoomba is laughing. He knows perfectly well that he will not suffer; he will stick to his blue ribbon as long as he can have those so-called temperance beverages. When Mr. Hemmant was Treasurer it was pointed out that sarsaparilla, which was then the favourite temperance drink, contained about 25 per cent. of alcohol. The Premier can perhaps tell me whether those figures are right. He was in the House at the time, though I fear he took his refreshments in a more concentrated form. As soon as it became known that sarsaparilla contained 25 per cent. of alcohol, a large number of persons became teetotallers. I hope the effect of passing this resolution, after the explanation the Treasurer has given and the analysis he has had made—no doubt for party purposes—of the component parts of these drinks, will be to fetch Mr. Booth back to start a fresh crusade against temperance drinks which contain 32½ per cent. of alcohol. As to the resolutions, I do not object to their being taken seriatim, but it shows an inconsistency on the part of the Government with their strong—I was going to say working—majority, but I ought rather to say with their pliant tail.

Mr. BLACK: Now that this revelation has been made to the Committee and the country, it would be well if we had some expression of opinion from the leader of the temperance party as to whether these really are temperance drinks that he takes. I know I have frequently seen those who profess to be teetotallers indulge in this peppermint cordial. The Treasurer has informed the Committee—and I am sure we have no reason to doubt his statement, because he is in a position to know—that peppermint cordial contains no less than 30·5 per cent. of alcohol. I quite agree with this resolution, because, if the temperance advocates have been misleading the people to the extent they appear to have been doing, it is only right that they should contribute their share towards the taxation of the country.

Mr. MACFARLANE: I like a little banter now and then, and I can stand it very well. Perhaps hon. members may not be aware of it, but it is not the teetotallers who use these particular drinks. They are only used by those chaps who like their "nips," such as the hon. member for Balonne. Teetotallers do not require them; they require neither peppermint nor stronger liquors. They do perfectly well without it. I have never known teetotallers to take any of these drinks.

Mr. ARCHER said: In the event of a man making his own cordials containing spirits, would the spirits by means of which they were made come under the same taxation as imported spirits?

The COLONIAL TREASURER: He would have to pay duty on the spirit before he could manufacture.

Mr. MOREHEAD said: Mr. Fraser,—The hon. member for Ipswich is, I think, in error. As far as I could understand what fell from the hon. the Treasurer, there are temperance liquors which have hitherto escaped paying the duty which he now proposes to put upon them. I can quite understand the irritation of the hon. member for Ipswich; and I would, sir, call attention to this fact: that while the charge was made generally against this tax as being unpalatable to the teetotallers, the hon. member for Ipswich has only told us of one drink which I suppose is not palatable to himself, and that is peppermint cordial. That is the only drink he says he does not like and never drinks; all the other drinks recited by the hon. member for Mackay he does not object to.

Mr. MACFARLANE: I hope I shall never drink as much as you do.

Mr. MOREHEAD: I hope not; I hope the hon. member will not do anything of the sort. I think there is a good deal to be said in favour of this tax,

as it will fix a penalty on those men who, under the influence of enthusiasm, if not for some worse purpose, take the blue ribbon which the hon. member did so openly the other night.

Mr. MACFARLANE: Three years ago.

Mr. MOREHEAD: Then he seems to make it an annual affair. He took it three years ago, and again the other day, I am sorry, Mr. Fraser, that the hon. gentleman raises no objection except to peppermint cordial, which he seems not to like.

Question put and passed.

The COLONIAL TREASURER said: Mr. Fraser,—The explanation I am about to give respecting the second of these resolutions will be equally applicable to the third. It has been found, in the growing extent of importations to this colony, that there are gradually coming into the country large quantities of commodities, which act as substitutes for the commodities which are specially taxed or specially denominated as being subject to a fixed rate of duty, and which answer all the purposes of the known goods. These articles, not being specially mentioned in the tariff at fixed rates of duty, are admitted at *ad valorem*, whereby a very considerable loss to the revenue does sometimes accrue. This has been met in the neighbouring colony of New South Wales by discretionary power being vested in the Governor in Council under the Customs Regulations Act. By the 133rd clause of that Act it is enacted:—

"Whenever any article of merchandise then unknown to the collector is imported which, in the opinion of the collector or of the commissioners, is apparently a substitute for any known dutiable article, or is apparently designed to evade duty, but possesses properties in the whole, or in part, which can be used or were intended to be applied for a similar purpose as such dutiable article, it shall be lawful for the Governor to direct that a duty be levied on such article at a rate to be fixed in proportion to the degree in which such unknown article approximates in its qualities or uses to such dutiable article, and such rate thus fixed shall be published in a Treasury order in the *Gazette* and one other newspaper published in Sydney, and exhibited in the long-room or other public place in the Custom-house. And a copy of all such Treasury orders shall without unnecessary delay be laid before both Houses of Parliament."

It has been represented to us by the Collector of Customs that this has been a most salutary clause, and has prevented the revenue of New South Wales from being defrauded to the extent that it would have been but for the power conferred by it upon the Collector, or virtually the Governor in Council. I may say that under such a clause as that there have been frequent appeals, some of which are celebrated cases. For instance, there is the case of the Apollo Candle Company, in which, when duty was levied upon stearine, it was decided in favour of the company in the courts of the colony, but on appeal to the highest tribunal at home it was decided in favour of the Government. Mr. Dalley, in speaking upon this matter, refers to the clause in these terms:—

"In order to have a clear understanding of the whole subject from the point of view of the Collector of Customs, I have obtained from that officer the following memorandum:—

"The 133rd section of the Customs Regulation Act has been of great value in the first collection of duties imposed by the tariff. Without this clause, and by a literal reading of items chargeable with duty as imposed by Parliament, the purposes and intentions of such taxation might be evaded by misdescription of entry, or by disguising the articles. The effect of the clause has been to impose a check, and the advantage of that check will become speedily apparent if its action is withdrawn. The amount of Customs duty saved by the operation of the clause is negative in character;"—

It would not be negative here—

"but we have daily illustrations of its value, and even though so short a time has elapsed since doubt has been thrown on the validity of the clause in question, I have been threatened with claims for the refund of duties charged (I think fairly) under its provisions. I give a few of the items under which the 133rd section has been made to apply:—Acid, acetic, as opposing duty on vinegar; beer, condensed, ditto on beer; benzine, ditto on turpentine; Japans (various), ditto on varnish; candy, ditto on sugar; cartridges containing shot, ditto on shot; cartridges containing powder, ditto on powder; casements, ditto on sashes; castorine, ditto on castor oil; chicory root, ditto on chicory; chillies, ground, ditto on spices; chocolate creams, ditto on confectionery; chocolate sticks, ditto on chocolate; chromes, ditto on paints; cigarettes, ditto on cigars; fruits, canned, ditto on preserves. I will not risk becoming wearisome by continuing the list, which I am sure might be extended to more than 200 separate articles to which frequent additions are made."

That is the opinion of the Collector of Customs in New South Wales; and, as I have already stated, the celebrated case of the Apollo Candle Company *versus* the Government was confirmed by the judicial tribunal of the Privy Council as in favour of the Government under this clause. The objection to the clause is that it confers too arbitrary a power on the Government of the day; and instead, therefore, of submitting it in the shape in which it has been framed in New South Wales, we propose to submit it to the consideration of the Committee in the divided form of these two resolutions, and for this reason: There are two classes of commodities which are at present threatening our revenue. There are some articles of merchandise which undergo a preparatory stage in the adjoining colonies, and come in here paying *ad valorem;* but by a very small amount of manufacture they attain to the same degree of perfection that the manufactured article on import has attained to, and thereby are substitutes for those articles. As a case in point, lately there have been introduced into the colony large shipments of salt pork in brine. That is not named in the tariff, and it comes in at an *ad valorem* duty of something like ½d. a pound, as opposed to 2d. a pound on bacon. All the manufacture it has to undergo is to be smoked, and and then it becomes fully equal in value to the bacon, on which 2d. a pound has been paid. The Government do not wish to discourage the manufacture or completion of manufacture in the colony, but certainly more than the *ad valorem* duty should be charged; and we therefore propose that this article should pay a duty of 1d. a pound. There are many other articles in the same category—acetic acid, lemon-peel, dynamite, and a variety of other things. The second resolution refers to the same subject, but it deals with articles which come in distinctly as substitutes in a fully manufactured condition. For instance, chocolate and milk pay only an *ad valorem* duty, while chocolate pays 4d. a pound. The *ad valorem* duty amounts to about ½d. a pound, and yet the article answers all the purposes of the chocolate. The same is the case with cocoa and milk, coffee and milk, essence of coffee, extract of coffee, dried orange-peel, and many other articles. The resolutions are framed to protect the revenue—not that there is any immediate danger, but I think that while we are framing a Customs Act the matter might just as well be submitted to the Committee, in order that the Collector of Customs, if he should see that there is any large increase in the importations of these articles, may act in a manner defined by the Legislature and not solely upon the interference of the Treasurer of the day. I believe at the present time the interpretation fixed by the Customs officers on certain articles not specifically mentioned in the tariff is not strictly legal—they have no legislative

authority for it. They discriminate as well as they can between various qualities of merchandise, but they have no legal ground to go upon in many cases. It therefore seems well that the Legislature should express an opinion on the subject, and give that power to the Collector of Customs for the protection of the revenue. I beg to move—

That there be raised, levied, collected, or paid upon goods imported, which have been partially converted into goods which would be liable to a higher rate of duty, a duty at a rate equal to one-half of such higher rate of duty.

That there be raised, levied, collected, or paid upon goods imported which are substitutes for known dutiable goods, a duty at the same rate as that payable upon the goods for which they are substitutes, or such less rate as may be fixed by the Governor in Council.

It does not give the Governor in Council authority to fix a higher rate, but if representations are made that the goods taxed are not full substitutes for the known goods a lower rate of duty may be fixed.

Mr. NORTON: I thought we were to take the resolutions one at a time.

The COLONIAL TREASURER: They may be taken separately if desired, but I think it is not necessary, as they really are the same thing.

Mr. MOREHEAD said: Mr. Fraser,—Although Mr. Dalley may be a very wise man, I hope we are not to be terrified into subjection by the name of Mr. Dalley—"plain Bill," as he is called down below. The whole argument of the hon. member seemed to be based upon some speech made by Mr. Dalley in New South Wales. There is a good deal in what was said by the hon. member, but there is a good deal to be said against it. In the first place, I assume the hon. gentleman is going to schedule a large number of articles.

The COLONIAL TREASURER: No.

Mr. MOREHEAD: Is the Committee then asked to pass resolutions giving the Government power to do as they like with articles they have any doubt about? The hon. gentleman has mentioned some things he knows—for instance, pork and chocolate. He mentioned pork particularly; he seemed to be fond of it, or, at any rate, to be an authority on it. He showed that an injustice has been done to the importer of smoked bacon as against the importer of pork in brine. At any rate, that could be scheduled. The hon. gentleman asks the Committee to give the Government an enormous power—a power which, probably, is not given by any other Customs Act in the world.

The COLONIAL TREASURER: Yes; they have greater power in New South Wales.

Mr. MOREHEAD: I would like the hon. member to say what it is, because I cannot imagine greater powers being given. The rate on the articles is to be decided upon by the Government of the day; there is to be no appeal to Parliament.

The COLONIAL TREASURER: It would be a question of fact.

Mr. MOREHEAD: It would not be a question of fact; it would be a question where prejudice would have a great deal to do, and perhaps where policy would have a great deal to do. These resolutions are an afterthought on the part of the Government. They were not brought forward when the tariff resolutions were first proposed, but afterwards—by whose representations or by whose request I know not. There can be no denying that it was an afterthought.

The PREMIER: It was not.

Mr. MOREHEAD: At any rate it was an afterthought so far as those members of the Committee who were not in the secret were concerned. It was not part and parcel of the fiscal arrangements of the Treasurer as announced in the first instance. I take extreme exception to the power which would be given under the resolutions to the Minister—I do not care what party may be in power—and I shall certainly vote against clauses under which a Minister will have the power of defining what are and what are not dutiable goods, and I think the majority of the Committee will be with me. No justification has been given by the Treasurer for placing such enormous power in the hands of the Treasurer for the time being—who is the administrator of the law—and in the hands of his lieutenant, the Collector of Customs. He has told us that there were numerous cases in which the substitution of one material for another paying higher duty had taken place. He quoted one case—that of the Apollo Company with regard to stearine—but I defy him to quote another. I say that case stands *per se;* and I defy the hon. gentleman to quote another case of the sort. The action between the company and the Government was decided against the Government in one colony and in their favour at home on appeal; and because in that solitary case the courts of the colony were in favour of the contention of the Treasurer—that there is danger of substitution—he asks us to vest these enormous powers in the hands of the Treasurer for the time being. But before he asked us to pass—to use the language of an old member of this Chamber—such an algerine measure he should have made out a far better case. It is a most tyrannical measure; it is really putting into the hands of the Collector of Customs and the Government for the time being a power to interfere with every merchant in the colony. The Collector of Customs may say to any merchant, "You say this is so-and-so, but I say it is something else; I will take possession of it and lock it up." I say again that unless the Government had wonderfully good cause they should not have asked this Committee to give that power. The case quoted by the Treasurer did not occur in this colony. If even one solitary case had occurred in this colony where goods were surreptitiously brought in to compete with goods of a similar class paying higher duty I could understand the necessity for bringing forward these resolutions, but simply because such a thing occurred in another colony we are called upon to legislate to prevent a similar case arising in this colony. No necessity has been shown by the Treasurer for such an alteration in our Customs laws, and hon. members should be very careful and see very good reason before they interfere in such a matter. If any urgent necessity had arisen, as had arisen with regard to the previous teetotal clause, there would be some justification for the introduction of these resolutions. It has been pointed out that the teetotaller has been drinking heavily spirited teetotal drinks, and there is a proper reason in such a case why the Treasurer should interfere; but why he should bring in clauses dealing with a state of affairs which has no existence, and which may never exist in the colony, but which if it should arise may then be met, I cannot understand. I certainly shall oppose them, and shall do all I can when the Bill comes on to prevent them becoming law. The resolutions are ill-advised, ill-considered, and in no way called for; there is no necessity for such an interference with the liberty of the subject, or for such an inquisitorial system of examining goods introduced in a *bonâ fide* manner simply at the will of the Colonial Treasurer of the day or the Collector of Customs.

The COLONIAL TREASURER said: I think the hon. gentleman did not do me the honour of listening to the remarks I made when moving the resolutions. The powers conferred by the Governor in Council in New South Wales upon the Collector of Customs are greater than those contained in the resolutions before the Committee. There they may fix whatever tariff they choose so long as they do not exceed that levied on the articles for which other articles are substituted; but here we divide them into two classes. The Governor in Council cannot charge more for those which have undergone a certain preparation than this Committee determines—the proposal being that it shall be one-half the existing rate on the article for which it is substituted; and with regard to the others, the Governor in Council cannot exceed the duty on the articles for which they are substituted. The hon. gentleman says there is no necessity for the resolutions; but I say there is a necessity for them. We want to legalise the action at present taken by the Customs Department. If the hon. gentleman imports goods not described in the tariff the Collector of Customs reports the matter to the Treasury, and, on my authority, imposes a rate of duty which he considers fair in proportion to the value or use of the article. But I think it far better not go on in that uncertain manner; it is better that the tariff should be distinctly defined and that there should be fixed a rate of duty to be levied on substitutes in the manner proposed by the resolutions. I cannot understand the hon. gentleman's indignation at what he calls the algerine resolutions before the Committee. There is no intention on the part of the Government to interfere with the liberty of the subject or to trammel commerce; but as long as I have the honour to discharge the duties of Treasurer I shall do all I can to protect the revenue and to see that duties are legally enforced and not in an arbitrary manner. We shall be in a position to discuss the matter more fully when the Bill comes on; but I contend that I have submitted good reasons why the resolutions should pass.

Mr. NORTON said: Mr. Speaker,—I think the Committee have a good right to complain of the way in which these matters have been brought forward. When the Colonial Treasurer delivered his Financial Statement on the 18th of August he told the Committee what changes were to be made in taxation. He said that "under all these circumstances Government consider that an increase of taxation, whereby an addition of annual revenue to the extent of about £90,000 may be expected to accrue," &c.; then the hon. gentleman went on to specify in detail the different articles from which this additional £90,000 is to be raised, and said, "We propose to increase the duty on all spirits imported into the colony which now pay 10s. per gallon to 12s. per gallon." The amount estimated from this increase is set down at £36,000. Further on he said, "We propose to remove machinery from the list of articles exempted from duty and to place it under the classification of articles paying 5 per cent. *ad valorem* duty." The amount to be raised by that is £14,000. The hon. gentleman continued:—

"We also propose to increase the duty on timber imported into the colony, and which now pays 5 per cent. *ad valorem*, to 1s. per 100 superficial feet on timber in the log or undressed, and to 1s. 6d. per 100 feet on dressed timber."

The amount to be raised by that tax is £3,000. The next proposal is the tax on beer, in reference to which he said:—

"Government propose to levy a duty by way of excise on all beer manufactured within the colony of 3d. per gallon, which, under the estimate of production I have before given, may be expected to yield an annual revenue of over £40,000."

From these four articles, all of which were mentioned by the Treasurer in his Budget Speech, we were told that the Government expect to receive additional revenue to the extent of £90,000. And just before the conclusion of his Speech the hon. gentleman remarked:—

"I trust, Mr. Fraser, I have made the proposals of Government clear to the Committee, and that such proposals will meet with the approval of hon. members and of the country."

Now, the Colonial Treasurer in making that statement led the Committee to understand that certain new taxes would be proposed by the Government, but he has now introduced resolutions which are quite apart from the items proposed to be taxed in the first resolutions submitted to the Committee. He wants to add a number of articles to those already included in the tariff, without allowing the Committee an opportunity of understanding what is being done. We do not know what articles are to be taxed, or what duty is to be imposed on them. In the list he read out the Colonial Treasurer mentioned bacon. He said that salt pork is introduced at ½d. per pound, while bacon is charged 2d. a pound, and that the salt pork is afterwards converted into bacon. He told us that the Government intend to levy a duty of 1d. per pound on salt pork.

The PREMIER: Half the duty on bacon.

Mr. NORTON: Half the duty on bacon; that is double the duty on pork.

The PREMIER: A penny is twice a half-penny.

Mr. MOREHEAD: Is it? I don't think the Treasurer knows that.

Mr. NORTON: I have heard that once or twice before. The Treasurer told us that the duty on pork is ½d. a pound, but the Government now propose to levy 1d. per pound. If they do that the duty will be doubled, and if we had allowed these resolutions to pass last night when they were brought before the Committee nobody would have had the slightest knowledge that the duty on pork is to be raised from ½d. to 1d. But not only will pork be affected in this way. A dozen different articles mentioned by the hon. gentleman just now will be similarly affected—the duties on them will be raised and nobody would have had any knowledge of it had we not insisted on discussing the resolutions. If the Treasurer knows a number of articles which are substituted for others on which the higher duty is now leviable, he is bound, I think, in justice to the Committee and the country, to put them before the Committee so that we may know what we are doing. It has gone forth to the country that the Government intend to levy additional taxes in order to raise £90,000 increased revenue. Everybody knows what those taxes are. But it is now proposed that a number of articles which by law are admitted into the colony at a certain rate shall be subject to an increased duty—the rate hitherto paid for them is to be raised to the rate charged for other articles. I presume at the time the Customs tariff was arranged these articles were not supposed to be of the higher value. It is not a question of whether one article is a substitute for another article or not, but a question of altering the law. If the charge made at the present time is not legal, and anyone who has to pay that charge went to law, the Treasurer would be compelled to disgorge the money he has taken; but, if the charge is a legal one, then there is no necessity for these resolutions. In effect, the Government say the charges we now make are not legal, and they want to legalise them; and if we had passed these resolutions last night the higher charges would have been imposed without anyone in the country having

the slightest knowledge that it was done. In fairness to the Committee and to the country these articles ought to be scheduled, and the rate to be paid by each put opposite them. Then we should know what the Government proposals are; but these resolutions are something quite indefinite, and it appears to me that the Government intend to keep the matter in their hands in this way so that the Collector of Customs may raise revenue on any articles which he may say come under the provisions of these resolutions.

The PREMIER said: Mr. Fraser,—The explanation has been given more than once about these resolutions. At the present time doubts have arisen as to what is the proper interpretation of the Customs Act in respect to certain goods, and various attempts have been made to evade the law by partly making goods subject to a higher rate of duty—making them outside the colony—as near as possible like the articles paying the higher rate, and then bringing them into the country at a lower rate of duty. The question is whether the Government can charge the higher rate of duty in such cases or not. They ought, I think, to be in a position to do so. It is unnecessary to enumerate the articles which are subjected to the process I have alluded to. There are many things of which as much of the manufacture as possible is conducted outside the colony, so as to evade the higher duty; and then, after they have introduced the goods, the importers go through the mere form of completing the manufacture. That is an evasion of the law, and it is an evasion of the law which ought to be dealt with. We want to deal with that in these resolutions. There is another class of goods imported which are only substitutes for dutiable goods. Under the existing law a nice point arises as to whether the Government have the power to charge the higher rate of duty in cases like those. Take the case of cocoa, for instance. A little milk is added to it and then it is imported in in the form of milk and cocoa. I would have no hesitation, in that case, in making the importer pay the duty on cocoa. The hon. member for Balonne has said that no cases have been given in which the duties have been evaded in this way, but my hon. friend, the Colonial Treasurer, mentioned at least twenty cases—not cases decided in a court of law, but about twenty instances in which a nice point of law would arise as to whether we can charge the higher rate of duty now or not. I think we can, but that point should be settled, and the resolutions before the Committee are the introductory step to bringing in a Bill on the subject, for every Bill dealing with revenue matters must be introduced in Committee of the whole House, and resolutions imposing taxation must be first introduced in Committee of Ways and Means. When a Bill was being prepared for the purpose of giving effect to the taxation proposed by the Treasurer, and this matter was mentioned, it occurred to me whether these resolutions would not also have to receive the sanction of the Committee of Ways and Means. It is a very nice point as to whether it was necessary that they should be resolved here or not, but upon consulting with the officers of the House I thought it safer that they should be proposed in Committee of Ways and Means, merely as a formal authority for introducing the Bill upon which they will be discussed. That is how they came in; they are essentially subsidiary to the taxation proposals. They will not bring in any more revenue; but they will remove certain doubts. A possible objection might have been taken when the Bill went into committee, and they are introduced here to clear up doubt. If the proper interpretation be that they do involve a higher rate of duty, then they require to be originated in Committee of Ways and Means. If, on the other hand, they do not require it, they need not be introduced in Committee of Ways and Means. By introducing them here all difficulty will be removed.

Mr. ARCHER said: Mr. Fraser,—I think that the Colonial Secretary was mistaken when he told the hon. member for Port Curtis that he did not understand the question before the Committee. I think he understood it remarkably well, and I am very much of his opinion, that these articles should be scheduled. I will say that I sympathise with the Colonial Treasurer in this matter. I know that the Collector of Customs, since he was appointed, has spoken to me several times about it, and tried to remove these cases of evading duty. We know that everything that comes into the colony is invoiced here. We know these things that evade duty by being, as the Colonial Treasurer says, mixed with other things in some way which does not decrease their value, such as milk and cocoa, and a great many other things. There is a trade going on in England of forging iron plates into the shape they will take in a vessel. They pay a lesser duty on the iron plates; but the duty upon the completed vessel would be much greater; the vessel being put together in the colony. I suppose that is one of the cases that this refers to. I cannot understand what the Premier refers to at all.

The PREMIER: I have told you.

Mr. ARCHER: Goods which are partially converted into others which would pay a higher duty? Those iron plates, for instance, which have been partly converted into a steam vessel, which vessel would be of much higher value than the raw iron plates. If that does not mean goods imported for the purpose of being converted into articles of a higher value, I do not know the meaning of words.

The PREMIER: Take the case of pork for instance.

Mr. ARCHER: I understand the case quite well; that is the one I spoke of to the Collector of Customs. The case of pork is this: There is pork brought here for the purpose of being converted into bacon; but that is not salt pork. Salt pork is cut up in quite a different manner from the pork which is converted into bacon. There is nothing said here about that, although if we touch this we raise the price of salt pork, as the hon. member for Port Curtis said.

The PREMIER: This is only a resolution; a Bill will have to be introduced.

Mr. ARCHER: There ought to be some way of distinguishing. If the articles were scheduled, a distinction could be made between salt pork and the pork which is introduced for the purpose of being converted into bacon. The Colonial Treasurer can schedule all the goods that he knows of that are imported to avoid paying a higher duty, In future years it may be possible that other goods will come in; but, as Parliament sits every year, the manufacturers will not drive such a large trade before such goods are added to the schedule. It would not be a difficult matter to schedule these things and fix the duty upon them, and if that were done I believe that every objection that has been raised from this side of the Committee would vanish. But we have a decided objection to leaving the power in the hands of the Government. I think, myself, that it might be abused—not in the hands of the present Treasurer, of course, but it might in the hands of a disreputable Government, such as the last—in whom the country has no confidence.

At all events, I do not think it should be done; I think the Treasurer ought to have this schedule in the Bill, and it would not be at all difficult to add to it, year by year, whenever a new article was known to come into the country in an adulterated manner in such a way as to evade duty.

The COLONIAL TREASURER said: Mr. Fraser,—The hon. gentleman who has just sat down, having been Colonial Treasurer, is aware of the difficulties that arise in this matter, and I am glad to have his recognition of them. I should have thought that the hon. gentleman would have seen more clearly the difficulties which would attend a schedule. Even now that schedule would be of an enormous extent, and every day is adding to the list of these articles. The ingenuity of manufacturers in England seems chiefly directed towards the manufacture of goods in such a shape that they will evade the tariff of the colonies to which they are sent; and not only is the ingenuity of manufacturers turned in that direction, but I can state for a positive fact that dealers in this colony are in league with the manufacturers at home to send out such preparations as can evade the duties which are affixed to certain articles. It was only yesterday that certain representations were made to me from the Custom House about a class of commodities which have never appeared before in Queensland, and which, of course, serve as a substitute for some known article. That list would be almost of an illimitable extent, and would certainly be added to every week or every month. It is not the intention of the present Government, nor do I think it is the intention of the hon. gentleman opposite, when he comes into power, to act in such a way as to embarrass or harass the community; we wish to act in such a way as will protect it, and seeing that really the Customs authorities can exercise the power in the majority of cases at the present time, I maintain that there is nothing to be apprehended from their action being legalised. The hon. gentleman's remarks about salt pork are apt to mislead. The pork to which the hon. gentleman referred is characterised as pickled pork; but it does not come into the colony as a substitute—that is to say, in a state to be converted into another article of consumption. Pickled pork and salt pork are essentially different. The pork in question is intended for further manufacture—to be converted into bacon. Pickled pork is not converted into bacon, because it would not attain the same degree of excellency. There is not the slightest fear that pickled pork will come within the scope of this law. It refers to salt pork. There are, at the present time, a considerable number of articles which could be scheduled; but every vessel brings fresh shipments exhibiting the ingenuity of manufacturers in the way of evading duty at the port of destination. Under these circumstances I think I am quite justified in asking for this power—a power which is already exercised, although there is no legal authority for its exercise.

Mr. MOREHEAD said: I am very glad to hear from the Premier that the remarks I made last night are borne out by fact. It now appears from the statement made by the Premier that these resolutions did not originate with the Colonial Treasurer, but were an afterthought of the Premier. His thoughts are not much as a rule, and his afterthoughts are probably not much better. The hon. gentleman has certainly taken even the last thread of power from his colleagues—he has taken over every portfolio. We did think that the Colonial Treasurer had some control over the management of his own affairs, but the Premier has taken it from him and is now Colonial Treasurer. He has told us distinctly that these resolutions—Minerva-like—have sprung from the brain of Jupiter. But to return to our muttons—or rather to our salt pork—which appears to be the crucial question under discussion at the present time. It has been raised by the Colonial Treasurer as one of very great importance connected with this resolution. The hon. gentleman has told us that the reason he proposes to impose this extra impost upon salt pork is that it may be converted into bacon. He therefore proposes to put 1d. a pound upon it instead of ½d.—steering a sort of middle course—the duty on bacon being 2d. a pound. Suppose a man introduces salt pork with the intention of boiling it, and not with the intention of making it into bacon at all. What will that man's position be? Must he boil it in bond, or is he to be followed about by an officer of the Customs Department to see that he does not convert it into bacon? That seems a most absurd reason—and it is the only reason given—for the introduction of this resolution. The hon. gentleman gives, as a typical case to support this resolution, the man who introduces salt pork in order to convert it into bacon, and I give as a typical case the man who introduces it to boil it. Why should he not be allowed to boil it? He may boil it if he likes, I suppose? But if he does boil it he is to be charged a duty of 1d. a pound and it is to be considered as bacon. The hon. gentleman was wrong in bringing this forward as a typical case. Somebody has said it is because he wants to save his own bacon, though I believe his bacon is safe enough. The hon. gentleman says there are difficulties in the way of scheduling these articles. There may be difficulties in the way, but he can schedule the greater number of the articles which he thinks will affect the tariff under these clauses if he chooses. If that were done, I think the Committee would not object so much to the clauses going. As they stand at the present time they give altogether too much power to the Minister for the time being and the Collector of Customs. The hon. gentleman states that there is hardly a day or a year passes that there are not new inventions, which, although they do not come under the existing tariff, are substitutes for articles of common consumption which would come under the existing tariff. Surely the whole of these inventions were not invented in twelve months! Surely inventions are not going on at such a rapid rate that such powers as are here proposed should be given to the Colonial Treasurer without very good reasons indeed being given to the Committee! I have had sent out to me an article called "butterine"—I wish the hon. gentleman would eat it, and I guarantee he would never speak again if he did. But that is dealt with under the existing tariff. There is no doubt that there are a good many inventions of substitutes for dutiable articles, and such colourable imitations get through the Customs often without paying the duties which they should pay. It is equally certain that the bulk of these could be scheduled, and the Treasurer for the time being might easily lay upon the table of the House every session an addition to the schedule when he finds that a colourable imitation has been introduced and an attempt made to cheat the revenue. If that were done I am quite certain that the House would be willing to give such powers to the Treasurer as would hold him scot-free and give him the liberty of dealing with articles introduced during the period for which he had not got Parliamentary sanction. I take exception to there being no schedule of any sort attached to these resolutions. The Colonial Treasurer could very well, with the staff he has under him—and it

is a very good staff, I believe—have provided a schedule to be attached to this Bill, and such a schedule could be added to year after year if thought advisable by the Committee. Hon. members will, I believe, if they think over it, object to give such extreme powers as it is proposed in these resolutions should be given to the Treasurer and his subordinates. I believe also that the Colonial Treasurer will see the necessity, when the Bill is brought in, of providing a schedule that will embrace at any rate all those colourable imitations which appear to be introduced, and of which he read a long list from the speech of Mr. Dalley in New South Wales. He would have that as data to go upon, and could very easily schedule those articles.

The HON. J. M. MACROSSAN said: I think it better that these articles should be scheduled, because I do not think we should give such a sweeping power as under these resolutions will be given to the Treasurer. Our object in suggesting this is simply to protect the country from unjust and tyrannical interference on the part of the Government. The hon. gentleman said a few minutes ago that he was only asking for legal authority to do that which is done now without legal authority. Does he mean to say that the Governor in Council fixes the rates which are to be charged on certain articles?

An HONOURABLE MEMBER: That is what he said.

The HON. J. M. MACROSSAN: That is the very power which he wishes to establish by this clause, and it is a power to which I object very strongly.

The COLONIAL TREASURER said: I have already mentioned that in cases where the Collector of Customs is of opinion that an article which comes in is substituted for another article, and there is no uncertainty as to the amount of duty that should be charged upon it, he charges the duty payable upon the article for which it is a substitute. In the case of butterine, to which the hon. member for Balonne referred, that is charged as butter, cocoatine is charged as cocoa, preparations of chocolate are charged as confectionery, and extract of coffee is charged as coffee. Well, I do not think that a schedule could be conveniently framed and attached to the Bill, and I see a very grave inconvenience which would result from such a course being adopted. No hard-and-fast line can be laid down, but so far as supplying hon. gentlemen with all the information they require I can only assure them that that will be done, and that all information that can be obtained will be afforded them.

Mr. MOREHEAD: I am sure there is no member of the Committee who wants the Colonial Treasurer to make a hard-and-fast line, but we want all the information the Treasurer can supply. I think that a schedule should be attached to the Bill with a permissive clause giving the Treasurer the power of adding to the list certain articles, with another clause saying that any addition to the list—although the revenue will be collected by the Treasurer—should be submitted to the House for its concurrence.

Mr. MACFARLANE said: There is some force in one of the arguments from the other side in reference to scheduling some of the articles that are well known. Pork has been mentioned, and I think if that was scheduled the industry of bacon-curing in the colony would be fostered. There have been great complaints for years of the curers having to compete against the half-cured bacon which is imported here, and if it was known that bacon cured in the other colonies was, on its arrival here, scheduled and charged a higher rate than at present, the curers in this colony would get a better chance of making living. There is another article that has been mentioned that might also be included in a schedule, and that is pulp for making jams; and any other articles that the Colonial Treasurer knows of, which at present evade jam duty, might also be brought within the operation of a schedule. I think the Colonial Treasurer would do well to take the hint and schedule a few of the articles that are well known.

Mr. FERGUSON said: I would like a little information from the Colonial Treasurer on one matter. I understand that at the present time any business firms can send to Sydney for billheads or printed forms, and get them up duty-free, but if newspaper proprietors or jobbing printers want a bale of paper they have to pay duty upon it. There are a large number of men in the colony who are dependent upon job-printing for their living, and I think that a large number of business firms send their printing out of the colony and get it back free of duty. If that is the case, I think it is a matter that requires immediate attention from the Colonial Treasurer.

The COLONIAL TREASURER said: That is a matter, Mr. Fraser, which has really not been brought so prominently before my notice, and I admit its force; but it only shows the difficulty of framing a schedule which will comprise such anomalies. Every hon. member might have a list of articles that should be put in the schedule, and that would make it of an interminable length. As I say, I will bring in a schedule of the articles that are passed, and that will assist hon. gentlemen in arriving at a conclusion.

Question put and passed.

The COLONIAL TREASURER: I beg to move—

That it is desirable that brewers be registered, and that an annual fee of £25 be charged for such registration.

I do not think this requires any lengthy explanation, for I believe it will commend itself to the good sense of hon. members. I do not really see why brewers should be exempt from the payment of an annual registration fee any more than distillers or wine and spirit merchants. I do not think the fee would be oppressive, and it is necessary that it should be in force.

Mr. NORTON said: This is taking us by storm, too, Mr. Fraser. The resolution put in our hands says nothing about an annual fee; and I asked a number of members on this side whether they thought it possible that an annual fee could be meant, and we agreed that it could not, or if it was meant, there was a mistake in the resolution. Now we have been taken in and told that it is an annual fee. Well, is not that absurd!

The COLONIAL TREASURER: The other would be absurd.

Mr. NORTON: Why would the other be absurd? Why, if an annual fee is to be charged at all, should it not be charged the same way as it is in Victoria? There the Licensing Act deals with brewers, and we could deal with them in the same way.

The PREMIER: It will be in the Beer Bill.

Mr. NORTON: If both spirit-dealers and brewers of beer are to be licensed, it would be far better to include them all in one Act.

Mr. MOREHEAD: I hope the Premier will see his way to withdraw this amendment on an amendment. It is quite competent for the Treasurer, when he brings in the Bill, to frame it on the lines of an annual registration fee without its being inserted in this resolution. I think the resolution had better stand as printed—that is, without the insertion of the word "annual."

Mr. ISAMBERT: I expected hon. members on the other side would not object to any proposal which would favour a monopoly; and I do not suppose, therefore, they will oppose this tax on brewers of £25 per annum. To the large brewers the tax will be a mere bagatelle, but on those who are only commencing, or who brew but a small quantity, it will bear heavily. We must consider that the brewing business is as yet in its infancy. If the Treasurer wishes to raise revenue in this manner I shall be most happy to assist him in doing so, but it should be so adjusted as not to press unfairly on anyone. By the excise duty on beer the Government have it in their power to know where every gallon of beer produced in the colony comes from—how much was brewed at the large breweries, and how small a quantity at the small breweries—and by that means the Treasurer could easily adjust the burden. On the Continent, I know, public-houses are not all taxed alike. They have to provide so much money, and those which do the largest business pay the largest share of it. If these brewers' licenses were adjusted in that way, while the large brewers would not feel it, no hardship would be inflicted on the small ones.

Mr. MOREHEAD: When the hon. gentleman has a particular axe to grind he appeals to the axe-grinders on this side. On all other occasions he goes solid with his party. He need be under no misapprehension as to the action that may be taken with regard to this proposed taxation of brewers—which I do not altogether think an unfair one—when the Bill comes on for discussion. The hon. member for Rosewood may be perfectly certain that so long as he confines his exertions to the making of British beer he will have my support. But we will have no lager.

Mr. ISAMBERT: Lager beer has made such inroads upon British beer that they have now commenced to brew it in England.

Mr. MOREHEAD: That is preparatory to annexing Germany.

Mr. ISAMBERT: I have tasted lager beer at Townsville, sent out from Scotland by a relative or namesake of the leader of the Opposition to a firm there, and I must say it was first-class. Very soon there will be a large amount of lager beer brewed in England, and if the hon. member is satisfied to call it British beer it is not of much consequence.

Question put and passed.

On the motion of the COLONIAL TREASURER, the CHAIRMAN left the chair, reported the resolutions to the House, and obtained leave to sit again on Tuesday.

The COLONIAL TREASURER: I beg to move that the resolutions be received on Tuesday next.

Question put and passed.

ADJOURNMENT.

The PREMIER said: In accordance with the notice I gave this afternoon, I move that this House do now adjourn until Tuesday next. On that day, after the motion of which I have given notice about sitting on Fridays, and after receiving the resolutions reported from Committee of Ways and Means for the purpose of introducing Bills founded upon them, we will proceed with the Elections Bill in committee, and if that should be disposed of in time, we will take the Victoria Bridge Closure Bill and the Undue Subdivision of Land Prevention Bill.

Mr. CHUBB said: I take advantage of this opportunity, Mr. Speaker, to refer to a matter personal to myself in connection with the division that took place last night in Committee of Ways and Means. I paired on that motion with the hon. member for Ipswich, Mr. Salkeld, but through forgetting the rule of the House, and not giving the Clerk the necessary written notice, our names do not appear on the division list.

Question put and passed. The House adjourned at thirteen minutes past 9 o'clock until Tuesday next.