Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

TUESDAY, 22 SEPTEMBER 1885

LEGISLATIVE ASSEMBLY.

Tuesday, 22 *September*, 1885.

Petition.—Local Government Act of 1878 Amendment Bill—consideration of message, of date the 17th instant, from the Legislative Council.—Elections Bill—committee.—Adjournment.

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

PETITION.

Mr. BEATTIE presented a petition signed by a large number of individuals in connection with the sale of oysters in the city of Brisbane, complaining of certain disabilities under which they now suffer in connection with the sale of beer, and praying that relief may be given to them in the Licensing Bill before Parliament. He moved that the petition be read.

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

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

LOCAL GOVERNMENT ACT OF 1878 AMENDMENT BILL—CONSIDERATION OF MESSAGE, OF DATE THE 17TH INSTANT, FROM THE LEGISLATIVE COUNCIL.

The SPEAKER said: Before this Order of the Day is proceeded with, I consider it my duty as Speaker of this Assembly—and therefore the guardian of its rights and privileges—to

call the attention of the House to the reasons set forth by the Legislative Council, in their message of date the 17th instant, for insisting on their amendment in clause 4 of the Local Government Act of 1878 Amendment Bill. The only previous case on record where a similar claim has been set up by a nominated House—though not expressed in such emphatic terms—was in New Zealand in 1872; and when both Houses held a conference and agreed to submit the contention of the Legislative Council for the opinion of the Imperial Crown law officers, the law in relation to such a claim was very clearly laid down and has been accepted by almost every Legislative Council in all the dependencies of the Empire possessing representative institutions. The question is one of such grave importance, and such very large issues depend upon it, that it will be necessary for the House to exercise extreme care in dealing with a matter of such magnitude. If the contention contained in the Legislative Council's message is to be maintained and to be accepted as constitutionally correct, then the rights and privileges of this House are not only in danger, but the rights of those by whom this House is elected are also imperiled. It is quite clear that if the Legislative Council possesses co-ordinate powers with the Legislative Assembly in the amendment of all Bills—whether involving taxation, expenditure, or general legislation—then the functions of this House, as a representative body, responsible to those by whom its members have been elected, may be said to be virtually extinguished, because for centuries past the Commons of England have insisted that "all aids and supplies and aids to His Majesty in Parliament are the sole gift of the Commons, and it is the undoubted and sole right of the Commons to direct, limit, and appoint in such Bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants, which ought not to be changed or altered by the House of Lords." This constitutional principle, it has been well observed by one of the best writers on parliamentary government, is admitted in all self-governing British colonies. Were it otherwise the entire policy of the Government of the day might be set aside, and the principles of representative government, as embodied in this House, might be entirely neutralised. A case might easily arise where a Minister, in the exercise of his responsible duties, might formulate a financial policy which he considered necessary for the welfare and good government of the colony. He might, in the exercise of his undoubted right, appeal to the constituencies to ratify that policy. The constituencies might return a majority pledged to the policy of the Minister, who, on the meeting of Parliament, would proceed to embody his policy in legislation. If the contention of the Legislative Council in their message of the 17th instant be a correct one, and be accepted by this House, then the Upper Chamber might, by its amendment of the financial policy of the Government of the day, completely override the legislation of this House, and the wishes of the people as expressed at the general election. It will, therefore, be seen by hon. members that the question is one of extreme importance, not only as affecting the present but all future Legislative Assemblies. It may be necessary for me to point out, in order to guide the House in the conclusion to which it may come on this matter, the result of a similar contention by the Legislative Council of New Zealand. The 54th section of the Constitution Act of the colony of New Zealand, passed by the Imperial Parliament in 1852, is as follows:—

"It shall not be lawful for the House of Representatives or the Legislative Council to pass, or for the Governor to assent to, any Bill appropriating to the public service any sum of money from or out of Her Majesty's revenue within New Zealand, unless the Governor, on Her Majesty's behalf, shall first have recommended to the House of Representatives to make provision for the specific public service towards which such money is to be appropriated."

In 1865 the Legislative Council and the House of Representatives passed an Act which is known as the Parliamentary Privileges Act of 1865. The 4th section of that Act gave the Legislative Council and the House of Representatives the same privileges as were possessed by the House of Commons, so far as the same were consistent with the Constitution Act of the colony. In 1872 a difference arose between the Legislative Council and the House of Representatives as to the statutory right of the Legislative Council to amend Bills of supply, and it arose out of the action of the Legislative Council in striking out of the Payments to Provinces Bill of 1871 a clause which authorised the Government to pay subsidies to certain provincial governments. The House of Representatives contended that the Legislative Council did not possess the power of amending a money Bill in the way they had amended the Bill named, while, on the other hand, the Council insisted that according to their reading of the 54th section of the Constitution Act they possessed equal powers with the House of Representatives to amend money Bills. A conference was held between managers appointed by both Houses, and as no settlement of the matter could be arrived at it was agreed that the case should be submitted for the opinion of the Imperial Crown law officers, and that their decision was to be accepted as final. The law officers of the Crown at that time were Sir J. D. Coleridge, Attorney-General, now Chief Justice of England, and Sir George Jessel, Solicitor-General, now deceased, but who, prior to his death, became Master of the Rolls—two of the highest legal authorities in Great Britain. Their opinion is given in the following words:—

"1. We are of opinion that, independently of the Parliamentary Privileges Act of 1865, the Legislative Council was not constitutionally justified in amending the Payments to Provinces Bill, 1871, by striking out the disputed clause 28. We think the Bill was a money Bill, and such a Bill as the House of Commons in this country would not have allowed to be amended by the House of Lords; and that the limitation proposed to be placed by the Legislative Council on Bills of aid or supply is too narrow, and would not be recognised by the House of Commons in England.

"2. We are of opinion that the Parliamentary Privileges Act, 1865, does not confer upon the Legislative Council any larger powers in this respect than it would otherwise have possessed. We think that this Act was not intended to affect, and did not affect, the legislative powers of either House of the Legislature in New Zealand.

"3. We think that the claims of the House of Representatives, contained in their message to the Legislative Council, are well founded; subject, of course, to the limitation that the Legislative Council have a perfect right to reject any Bill passed by the House of Representatives having for its object to vary the management or appropriation of money prescribed by an Act of the previous session.

"J. D. COLERIDGE.
"G. JESSEL."

When the despatch containing this opinion was laid upon the table of the House of Representatives in New Zealand on the 3rd September, 1872, by Mr. Fox, the then Premier, it was ordered by the House to be read and entered upon its journals. The Speaker on that occasion said:—

"With reference to the despatch just read, he had felt it to be his duty as Speaker of that House, and acting entirely in concert with the other managers, to decline accompanying the case sent home by any statement of the reasons under which the House had acted. They felt that the matter was one of certainty as to the privileges of that House, and although the managers for the Legislative Council had transmitted

to the law officers of the Crown a very elaborate and able paper setting forth the reasons for the views they entertained, the managers for the Legislative Assembly believed they would best consult the dignity of the House by simply giving the facts without any argument."

It is argued that the 2nd section of the Constitution Act of this colony upholds the contention of the Legislative Council. That clause is as follows :—

"Within the said colony of Queensland Her Majesty shall have power, by and with the advice and consent of the said Council and Assembly, to make laws for the peace, welfare, and good government of the colony in all cases whatsoever. Provided that all Bills for appropriating any part of the public revenue for imposing any new rate, tax, or impost, subject always to the limitations hereinafter provided, shall originate in the Legislative Assembly of the said colony."

The 53rd section of the British North America Act is as follows :—

"Bills for appropriating any part of the public revenue or for imposing any tax or impost shall originate in the House of Commons."

The House of Commons of the Dominion of Canada, equally with the Legislative Assembly of this colony, have contended that the true constitutional meaning of these clauses is that as the Legislative Council cannot originate neither can it amend any Bills affecting the public revenue or public taxation; and this opinion has been upheld by the highest constitutional writers who have devoted their time and attention to the study of parliamentary government. "Todd" says :—

"The claim on the part of a colonial Upper Chamber to the possession of equal rights with the Assembly to amend a money Bill would be inconsistent with the ancient and undeniable control which is exercised by the Imperial House of Commons over all financial matters; and that it is utterly impossible to concede to an Upper Chamber the right of amending a money Bill upon the mere authority of a local statute, when such Act admits of being construed in accordance with the well-understood laws and usages of the Imperial Parliament."

And, in my opinion, the right of this Assembly to originate and control public expenditure in all its branches does not rest exclusively under the 2nd section of the Constitution Act, because our own Standing Orders provide that "In all cases not herein provided for, resort shall be had to the rules, forms, usages, and practice of the Commons House of Parliament of Great Britain and Ireland;" while in the Standing Orders of the Legislative Council, so far from claiming any control over public expenditure, it is specifically directed that no petition the prayer of which is for a distinct grant of money shall be received by the Council. Thus, while the Legislative Assembly may receive and deal with such petitions on the recommendation of the Crown, the Legislative Council is prohibited from receiving them in any manner whatsoever. And further, the Legislative Council, in all cases not provided for in the Standing Orders, is directed to have recourse to the "rules, forms, usages, and practice," not of the House of Commons, which would be clearly inapplicable to their functions, but "of the Imperial Parliament." I would also direct the attention of the House to the fact that even in South Australia, where the Legislative Council is elective, the Legislative Assembly have jealously guarded their rights and privileges in the exclusive control of public expenditure and taxation. In 1876, a Loan Bill having passed the Assembly, was forwarded to the Legislative Council. In committee an amendment was suggested to strike out the sum of £125,000 for certain local improvements. The Legislative Assembly refused to concur in this suggestion, inasmuch as their doing so would be an undoubted surrender of their rights and privileges in connection with the public revenue and expenditure. The Legislative Council then, by a majority of one, decided not to withdraw from the suggested amendment, and the Bill on being returned to the Legislative Assembly was set aside. I may also inform the House that in New Zealand so much has the opinion of the Crown law officers of England been acted upon that when the Legislative Council of that colony refused to pass a Payment of Members Bill, and a sum of money was placed on the Estimates as an honorarium to the members of the Legislative Assembly, and that sum was embodied in the Appropriation Bill, the Bill was passed without any amendment, or attempted amendment, on the part of the Legislative Council. Since the opinion to which I have referred has been given it has been treated with all possible respect by the Legislative Council of New Zealand, and no further dispute with the rights and privileges of the Assembly has occurred. I am aware that opinions have been given that it was the intention of the framers of the Constitution Act at present in force in this colony to confer upon the Legislative Council equal powers with the Legislative Assembly in dealing with money Bills, but these opinions have been very rare, and, so far as I have been able to gather from a careful perusal of the proceedings of the different legislatures possessing representative government, in no case have they been seriously acted upon. Our own Standing Orders provide :—

"With respect to any Bill brought to this House from the Legislative Council, or returned by the Legislative Council to this House, with amendments, whereby any pecuniary penalty, forfeiture, or fee shall be authorised, imposed, regulated, varied, or extinguished, this House will not insist on its privileges in the following cases :—

"1. When the object of such pecuniary penalty or forfeiture is to secure the execution of an Act, or the punishment or prevention of offences.

"2. Where such fees are imposed in respect of benefit taken or service rendered under the Act, and in order to the execution of the Act, and are not made payable into the Treasury, or in aid of the public revenue, and do not form the ground of public accounting by the parties receiving the same, either in respect of deficit or surplus.

"3. When such Bill shall be a private Bill for a local or personal Act."

The other colonies have acted in a similar way to this House. When Bills have been amended in such a way as to come within the scope of this Standing Order, the Legislative Assemblies concerned have not insisted upon their privileges; but, where the amendments have been of a character clearly in contravention of the rights and privileges of the representative branch of the Legislature, as the absolute controllers of public taxation and public expenditure, they have invariably been resented, and if persisted in by the Upper Chambers the Bills have been laid aside. Within the last few days a case has occurred in the Legislative Council of New South Wales which affords striking proof that that body do not claim co-ordinate powers with the Legislative Assembly. Mr. Dalley, as the leader of the Government in the Upper Chamber, introduced a Public Health Bill in which was contemplated a very large expenditure of public money. Attention was called by several members to the fact that the introduction of such a Bill in the Upper House was an infringement of the rights and privileges of the Legislative Assembly. Mr. Dalley thereupon stated that he would postpone its second reading with the view of ascertaining how far the Legislative Council could deal with such a Bill. On Wednesday last, 16th September, Mr. Dalley stated in the Legislative Council that he had entirely recast the Bill; that he had struck out of it all provisions having reference to appropriation of any kind; and that he proposed to ask the House to deal with the

Bill in its amended form, leaving it to the Legislative Assembly entirely to deal with the clauses affecting public expenditure. He stated that he had had the Bill printed with lines drawn through all the passages which had been omitted; and that if it was the desire of the House that he should proceed with the Bill as it then stood he was prepared to go on with it. If, on the other hand, there was expressed either by the President or by the members of the House a desire that the safer course to adopt would be to introduce the Bill as he had altered it, he would be prepared, with the permission of the House, to withdraw the former Bill and substitute the altered one. Members again were inclined to think that even in its altered form the introduction of the Bill would be an infringement of the rights and privileges of the Legislative Assembly, and the matter was deferred for a week for further consideration. I think this case—and one of so recent a date—is proof, as I have said, that the Legislative Council of New South Wales do not claim the powers set forth in the Legislative Council's message of the 17th instant. I have considered it my duty to direct the attention of the House to this very important question: If the contention of the Legislative Council—that they possess co-ordinate powers with those of the Legislative Assembly in making amendments in all Bills—were for a moment to be endorsed by this House, the consequences would be disastrous to all future legislation and fraught with danger to the rights and liberties of the people of this colony.

The PREMIER (Hon. S. W. Griffith) said: Mr. Speaker,—When this Bill was last before this House we insisted upon our disagreement to the amendment made by the Legislative Council, and returned the Bill to them with this message on the 10th September:—

"Because it is the undoubted and sole right of the Legislative Assembly to determine and appoint the purposes, conditions, limitations, and qualifications of grants of money from the consolidated revenue, and the amendment of the Legislative Council relates wholly to the conditions under which such grants may be made to municipalities for waterworks."

That resolution was, as stated during the debate which then took place, founded upon the resolution of the House of Commons in 1678. The Legislative Council have returned the Bill again to us, intimating that they insist upon their amendment—

"Because in the amendment of all Bills the Constitution Act of 1867 confers upon the Legislative Council powers co-ordinate with those of the Legislative Assembly."

Certainly, sir, this is the first time in the history of this colony that a claim of that kind has been put forward so plainly and boldly. On various occasions the Legislative Council have declined to assent to the proposition that they have not power to amend certain Bills sent to them; but on this occasion they assert broadly that their powers are co-ordinate with ours. It appears to me that in this point the Legislative Council lose sight of the distinction that exists between what is not expressly prohibited by express words of an Act of Parliament and what is not in accordance with the real Constitution of the country. Our Constitution is partly written, but it is to a very much greater extent unwritten. The powers of various public officers here are by no means exactly defined and limited by Acts of Parliament; indeed, some of the most important parts of our Constitution are not dealt with by any Act of Parliament at all. For instance, the Executive Government is a thing unknown to our written Constitution. The Executive Government is formed by the Governor under the Queen's instructions, which direct him to summon to his Council certain persons fitted to conduct the various departments of Government. There is nothing in our written Constitution requiring those persons to have a seat in Parliament—in either House of Parliament. The only thing contained in the written Constitution is this:—Certain officials may hold seats in the Legislative Assembly. There is nothing requiring them to hold seats there. There is nothing in the written Constitution recognising the Cabinet or Executive Government as a part of the Constitution; still we all know very well that the Government is a most important part of the Constitution. It would be very difficult and inconvenient, probably, to define exactly their rights, powers, and authority; but, in fact, we know this of the constitution of the Government, that it is a body of persons selected by the Governor, under the Royal instructions, who command the confidence of the Legislative Assembly. That is practically the definition of the Government. If the Legislative Assembly do not approve of the gentlemen whom the Governor selects, they show that by intimating the fact to him or by refusing to give effect to the measures brought before them by the Governor's chosen advisers. If the Governor was to refuse to listen to the remonstrances of the Legislative Assembly as to the constitution of his Government, the Executive Council, the Legislative Assembly would, no doubt, take the matter into their own hands by refusing Supply. That is the way in which our Constitution works practically, but, according to the written Constitution, the Legislative Council has precisely the same powers—that is, there are no negative words to take those powers away from the Legislative Council. Suppose they asserted that, in their opinion, no Government should hold office unless it possessed their confidence: why, we should only laugh at them. On more than one occasion the House of Lords has passed a vote of censure on the Executive Government in England, but with what effect? Absolutely none: with no more effect than the resolution of a debating society. That is a practical illustration of the distinction between the written and unwritten parts of our Constitution. Mr. Disraeli once said that anything is constitutional which the majority of the House of Commons considers so. In one sense that is correct, but it cannot be said that anything is constitutional that the majority of the Legislative Council consider so. I thought it desirable to offer these observations before making the motion I intend to submit to the House. I desired to make them because I do not care to rely entirely upon precedent. I am sure hon. members of this House are amenable to argument, and I hope hon. members in the other branch of the Legislature are also amenable to argument. The question has been decided by the highest authorities on the subject, in the decisions which you have referred to, Mr. Speaker, in your able summary of the history of this matter. I shall presently call attention to the opinions of other eminent authorities on the question, for the purpose of pointing out clearly the distinction between what is legal—or rather what is not illegal—what is not forbidden by law, and what is constitutional—that is, what is consistent with the Constitution under which we live. The distinction between what is provided in our written Constitution and the unwritten law I have already pointed out. There is, it is true, nothing negative in the words of the Constitution Act in regard to this particular matter. But, as I have pointed out, that does not include the whole of our Constitution as it now stands after all the struggles that have taken place in connection with it. Our Constitution did not come full-fledged like Minerva from the brains of Jove, as if there was never any Constitution before. It was built up gradually in the old country, and we in

Australia being prepared for it, asked that we might have similar institutions to those in Great Britain as far as they were suitable to the colony. We got the same Constitution so far as it was suitable to the circumstances of the colony, and the framers of that Constitution did not attempt to write down everything in words—all the niceties and distinctions, and results of the struggles that had gone on for centuries. They did not attempt to define the power of the Legislative Council as analogous to the House of Lords any more than attempt to define the powers of the Governor as analogous to those of Her Majesty. The powers of the Crown are not restricted in any way by our Constitution Act. As is suggested by one of the authorities to which I am about to refer, there is nothing to prevent the Governor appointing 200 members to the Legislative Council to-morrow—of course that would be impossible—just as the Queen might appoint any number of peers in any one day. There is nothing to prevent the Governor or Queen from vetoing any measure passed by both Houses of Parliament. There are no negative words in the Constitution Act—nothing whatever to prevent that being done. The checks that are provided by the unwritten Constitution have hitherto always been sufficient for that purpose, and I think that in framing the Constitution in this way, and leaving so much unwritten, the framers of the Act had regard to the true principle which it was necessary to adopt. They appeared to have assumed that when persons are entrusted with grave responsibilities they will recognise that they are expected to exercise them with reason and discretion. It has generally been found that even the most unlikely persons, when they are entrusted with grave responsibilities, are sobered by the responsibility of their position and do not ordinarily indulge in such vagaries as they might indulge in if they chose to consider themselves at liberty to exercise every power not expressly taken away from them. I will now refer to a few words in "May on Constitutional History"; not because any member of this House is in doubt upon this subject, but for obvious reasons. In Mr. May's "Constitutional History," at page 98, 2nd volume, there is the following :—

"One of the most ancient and valued rights of the Commons is that of voting money and granting taxes to the Crown for the public service. From the earliest times they have made this right the means of extorting concessions from the Crown and advancing the liberties of the people. They upheld it with a bold spirit against the most arbitrary kings; and the Bill of Rights crowned their final triumph over prerogative. They upheld it with equal firmness against the Lords. For centuries they had resented any 'meddling' of the other House 'with matter of Supply'; and in the reign of Charles II. they successfully maintained their exclusive right to determine 'as to the matter, the measure, and the time' of every tax imposed upon the people."

Again, on page 103 :—

"While the Commons have promptly responded to the demands of the Crown, they have endeavoured to guard themselves against importunities from other quarters and from the unwise liberality of their own members. They will not listen to any petition or motion which involves a grant of public money until it has received the recommendation of the Crown. And they have further protected the public purse, by delays and other forms, against hasty and inconsiderate resolutions. Such precautions have been the more necessary as there are no checks upon the liberality of the Commons but such as they impose upon themselves. The Lords have no voice in questions of expenditure, save that of a formal assent to the Appropriation Acts. They are excluded from it by the spirit and by the forms of the Constitution.

"Not less exclusive has been the right of the Commons to grant taxes for meeting the public expenditure. These rights are indeed inseparable, and are founded on the same principles. 'Taxation,' said Lord Chatham, 'is part of the governing or legislative power. The taxes are a voluntary gift and grant of the Commons alone. In legislation the three estates of the realm are alike concerned, but the concurrence of the Peers and the Crown to a tax is only necessary to clothe it with the form of a law. The gift and grant is of the Commons alone.'"

That is Lord Chatham's opinion, and it could not be supposed that he was desirous of giving up the privileges of the House of Lords. Those are principles of our Constitution, which we brought with us from the old country, and which belong to our unwritten Constitution here as much as they belong to the Constitution of Great Britain. Part of them are in writing there, as part of ours are. In the year 1860 the House of Lords rejected a Bill to repeal the paper duty, and that was the first time for a very long period that they asserted their right to deal with the matter of taxation. The House of Commons had voted certain other duties which they intended to be in substitution *pro tanto* for the tax on paper, but the Bill to repeal the paper duty was a separate measure. That was sent to the House of Lords and rejected. Lord Palmerston, who was then at the head of the Government, moved, on the 5th July, 1860, three resolutions, the debate on which I will commend to any hon. member who desires to see what is the real principle that has been adopted in Great Britain. The resolutions he moved were these :—

"1. That the right of granting aids and supplies to the Crown is in the Commons alone, as an essential part of their Constitution; and the limitation of all such grants, as to the matter, manner, measure, and time is only in them.

"2. That although the Lords have exercised the power of rejecting Bills of several descriptions relating to taxation by negativing the whole, yet the exercise of that power by them has not been frequent, and is justly regarded by this House with peculiar jealousy, as affecting the right of the Commons to grant the Supplies and to provide the Ways and Means for the service of the year.

"3. That, to guard for the future against an undue exercise of that power by the Lords, and to secure to the Commons their rightful control over taxation and Supply, this House has in its own hands the power so to impose and remit taxes, and to frame Bills of Supply, that the right of the Commons as to the matter, manner, measure, and time, may be maintained inviolate."

I will quote one or two passages from Lord Palmerston's speech on that occasion. Amongst other things he said :—

"Now, sir, the question at issue involves considerations of the utmost constitutional importance. Our Constitution consists of authorities separate from, and independent of, one another; each possessing rights and powers which it may exercise upon its own authority. In the earlier periods of our history that was not the case. If, indeed, we go back to very remote periods we shall find that the Lords—that is, the Barons—were powerful enough to overrule the Crown, and by their exertions, by their courage, by their perseverance, by their spirit, and by their patriotism, they obtained for us the great and fundamental charter of our liberties. Then came a conflict between the Crown and the Barons, which lasted for a great length of time; but the Crown in the end prevailed, and established an arbitrary power, which ground down and controlled the liberties of the nation until at last it became an intolerable burden to the people. The extreme exercise of an excessive power created resistance. The nation rose against the Crown, and in withstanding its arbitrary authority it not only overthrew the Crown itself, but involved the other estates of the realm in its ruin. Well, sir, the humour of the country did not long adapt itself to that state of things. The power of the Crown was restored, but it was restored only to be again abused. That abuse of authority again produced its natural result. The Crown was once more overthrown—that is to say, those who exercised the authority of the Crown were overthrown by the very excess of their power and their unchecked and uncontrolled exercise of it. Then came about that state of things under which we have since so happily lived and flourished—under which, I may say, this nation has enjoyed a greater amount of civil, political, social, and religious liberty than, perhaps, ever fell to the lot of any other people in the world. But how has that result been accomplished? Not by

vesting in either of the three estates—the Crown, the Lords, or the Commons—exclusive or overruling power over the others. It has been brought about by maintaining for each its own separate and independent authority, and also by those three powers combining together to bear and forbear, endeavouring by harmonious concert with each other to avoid those conflicts and clashings which must have arisen if independent authority and independent action had been exerted by each or by all. The consequence of this has been that which we now so fortunately see around us.

"Well, sir, I say that each estate of the realm retains its power. Each of the three retains the power of originating laws, and each possesses the power, in common with the other two, of rejecting laws when proposed for their acceptance.

"It is generally supposed that the power of the Crown to reject laws has ceased to exist; but that is a fundamental error. That power survives as before, but it is exercised in a different manner. Instead of being exercised upon the laws proposed for the Royal assent, it is exercised by anticipation in the debates and proceedings of the two Houses of Parliament. It is delegated to those who are the responsible advisers of the Crown; and it is therefore not possible that a law passed by the two Houses should be presented to the Crown, and should then by the Crown be refused. And why is this? Because it cannot be imagined that a law should have received the consent of both Houses of Parliament, in which the responsible Ministers of the Crown are sitting, debating, acting, and voting, unless those who advise the Crown have agreed to that law, and are, therefore, prepared to counsel the Sovereign to assent to it. What would be the consequence if that course were not pursued? Why, sir, if a law were passed by the two Houses against the will and opinion of the Ministers of the day, those Ministers must naturally resign their offices and be replaced by men in whose wisdom Parliament reposed more confidence, and who agreed with the majorities in the two Houses. If that were not the case the two Houses would very soon intimate to the Crown their opinion in regard to those advisers, and would not leave any choice as to the hands in which the confidence of the Crown should be placed.

"I say then, sir, that each branch of the Legislature retains its respective power of rejection. But the Commons House of Parliament have claimed, from time immemorial, particular privileges in regard to particular measures. They have claimed—and I think justly claimed, as is stated in these resolutions—the exclusive right of determining matters connected with the taxation of the people. We (the Commons) have claimed to ourselves the right of originating such measures. We have denied to the Lords the right of originating such measures. We have, moreover, denied to them the right of altering or amending such measures. And both these assertions of right we have the power to enforce, because in either case Bills originating or amended in the Lords must come down to this House, and this House then has the opportunity either to confer with the Lords, thereby endeavouring to persuade them to give up their alterations, or to reject the Bill. In either alternative we have in our hands a clear, plain, straightforward, and direct method of giving effect to the claim or right which properly and legitimately belongs to us."

Then, after referring to the case of 1678, he goes on to say:—

"Many may think that the last resolution is too vague, and that it does not distinctly point out the method by which we might enforce our constitutional rights and privileges in the event of an attempt being made to evade them. But there are many ways in which, upon such a case arising, we should be able—first by argument, ultimately by the exercise of our own authority—to prevent such an encroachment upon the constitutional functions of this House. If, sir, such a mad course were to be adopted by the Lords, it would not be by a resolution entered upon our journals—it would not be by commencing a scolding match with the other House—it would not be by impotent words laid on our table that our constitutional rights could be vindicated. No, sir; it would be by action, which we should not be slow to discover the mode of taking; and I have not so mean an opinion of the powers of this House and of the weight of public sentiment, which would be declared emphatically in such a case, as to believe that we should be reduced to that condition in which the Commons of 1671 represented themselves to be when they said that their right to originate and grant aid to the Crown was the only poor thing they had to proffer for the acceptance of their Sovereign. The House of Commons stands now in a very different position from that in which it has been at other periods of our history. The course of events, the extension of representation, the diffusion of knowledge, the power of the Press, and the effect of public opinion, have been such that this House is daily increasing in its power instead of diminishing in that respect; and therefore, sir, so far from feeling any apprehension that the Lords may be able to usurp our legitimate functions, I am convinced that if we pursue a steady, dignified, and consistent course—if we abstain from anything that may savour of passion or aggression—if we stand upon and maintain our own rights, using, when necessary, the means belonging to us of making those rights respected—we shall be able, whenever our real functions are deliberately invaded, to protect them in the face of day, and with the approval and sanction of the country."

Then Lord Palmerston quotes the opinion of Mr. Hatsell, a very high authority. He says:—

"And, sir, in conclusion I would only urge upon the two Houses the advice which a great authority in parliamentary matters—Mr. Hatsell—has embodied in two passages of his well-known work.

"I would say to the Lords—

"'The conclusions to be drawn from all these transactions is that it should be the endeavour of each House of Parliament to take care in their proceedings not to transgress those boundaries which the Constitution has wisely allotted to them, nor to interfere in those matters which by the rules and practices of Parliament in former ages are not within their jurisdiction, for the rights and privileges of Parliament are interwoven with the earliest establishment of government in this country."

Lord Palmerston was followed by Mr. Collier, then member for Plymouth, a distinguished lawyer, who, after having been for some years a member of the Judicial Committee of the Privy Council, has lately been raised to the House of Lords; and he pointed out the distinction between what was legal and what was right or constitutional. I will read a passage from his speech on that subject. Mr. Collier said:—

"Sir, I do not mean to assert that the vote of the House of Lords was illegal, but I do assert that it was opposed to constitutional usage. I assert that it is a breach of that tacit understanding which regulates the functions of the two Houses of Parliament, without the maintenance of which the Constitution cannot work. And, sir, I may in one moment illustrate the difference between that which is legal and that which is constitutional.

"Now, sir, no man will dispute the legal right of the Crown to veto any Bill, or any number of Bills; but will any man tell me that if the Crown vetoed every Bill which is passed by the two Houses during the session—let me ask whether any man would say that such a course would be constitutional? Sir, upon the subject of the difference between what is legal and what is constitutional, I will at once quote an authority which I am sure will be respected by hon. gentlemen opposite, if they will do me the favour to listen to me. It is the authority of Lord Lyndhurst, on the occasion of the discussion in the House of Lords on the Life Peerages Bill. Lord Lyndhurst upon that occasion insisted, as against the Crown, that although there may have been a strict legal right, still the exercise of that right was unconstitutional; and I pray the House to hear what was said by Lord Lyndhurst upon that occasion, which explains more clearly, to my view, the difference between what is legal and what is constitutional. Lord Lyndhurst says:—

"'I hear it repeated that this is part of the prerogative of the Crown, and that the Crown may legally appoint a peer for life. Assuming that to be the case, it does not follow that every exercise of such a prerogative is consistent with the principles of the Constitution. The Sovereign may, if he thinks proper, by his prerogative create a hundred peers with descensible qualities in the course of a day. That would be consistent with the prerogative, and strictly legal; but everybody must feel, and everybody must know, that such an exercise of the undoubted prerogative of the Crown would be a flagrant violation of the principle of the Constitution. In the same manner, the Sovereign might place the Great Seal in the hands of a layman wholly unacquainted with the laws of the country. Other cases might be adduced, but those already cited are sufficient to establish the principle which I maintain.'

"And, sir, Lord Lyndhurst concludes with these words, to which I pray the particular attention of the House.—

"'Every person who has studied the Constitution of this country, and who is at all conversant with the principles on which it is founded, must be aware that one of its principles is long continued usage.'"

He then quoted a passage from "Blackstone," giving a very good illustration of the finality understood to attach to a resolution of the House of Commons in matters of money. When money was voted by the House of Commons it was understood that it might be spent, because it was taken for granted the House of Lords would approve of it. Then he went on:—

"Now, sir, having called the attention of the House to a passage from a great lawyer, perhaps I may be permitted to call the attention of the House to the opinion of the greatest of statesmen, Lord Chatham. It is an extract from his speech on the subject of the taxation of America. Lord Chatham says:—

"'Taxation is no part of the governing or legislative power. The taxes are a voluntary gift and grant of the Commons alone. And I pray the attention of the House to this distinction. In legislation the three estates of the realm are alike concerned; but the concurrence of the Peers and the Crown to a tax is only necessary to clothe it with the form of a law. The gift and grant is of the Commons alone. In ancient days the Crown, the barons, and the clergy possessed the lands. In those days the barons and the clergy gave and granted to the Crown. The property of the Lords, compared with that of the Commons, is as a drop of water in the ocean; and this House represents these Commons, the proprietors of the lands, and those proprietors virtually represent the rest of the inhabitants. When, therefore, in this House we give and grant, we give and grant what is our own. The distinction between legislation and taxation is essentially necessary to liberty. The Crown and the Peers are equally legislative powers with the Commons. If taxation be a part of simple legislation, the Crown and the Peers have rights in taxation as well as yourselves.'

"And I pray the attention of the House to the prophetic passage in conclusion. He says:—

"'Rights which they will claim, which they will exercise, whenever the principle can be supported by power.'

"Sir, to the last, Lord Chatham maintained that although we had a right to legislate for America with respect to all other questions, even with regard to the regulation of trade, although it might incidentally involve taxation, we had no right to deal with questions of pure taxation, on the principle that taxation and representation went together.

"Now, sir, this is the creed in which we have all been brought up. Sir, it is the faith in which the country have acted, and the House of Commons, acting on this faith, have in the present century voted a large quantity of revenue which was formally annual, but which they made perpetual on the understanding and belief that the House of Lords would never interfere to prevent the grant. Sir, I am satisfied that we never should have voted the sugar duties and malt duties as permanent duties if we had believed that we, the grantors, giving a voluntary grant, should not be permitted at any time to change our minds; and the House of Lords, who have repeatedly said that we, the House of Commons, were the sole judges of the matter, the manner, and the time, would interpose and say 'You are not the judges of these things, and we will interpose to prevent you exercising your own judgment as to the time for which these taxes will be taken.'"

I have quoted these opinions, sir, not because I think that any hon. member of this House requires conviction, or doubts for a moment that it is our exclusive right to deal with money matters, but because it is desirable that the position we take up should be understood by the public generally to be the right one. Of course it is perfectly impossible for any hon. member of this House to assent to the claim of the Legislative Council that they have a co-ordinate right with us to deal with money Bills; and I sincerely hope that on further consideration of the matter they will see that they have no such right—no right, although it is not declared to be illegal. They have the power—not the right—to reject the Bill; we cannot prevent their doing that; but if we admitted the ground they have taken up, our Constitution could not work. It is now my duty to move that this Bill be laid aside. The Legislative Council will have succeeded in rejecting the Bill; but, as I said before, that is a power—a physical power—which cannot be denied them. They have exercised that power, and have rejected a Bill which, I believe, would have been of very great advantage to many communities of this colony; but that is for them to consider. They have determined to do that; and they have put us in this position: the Bill must be rejected or we must abandon our right as representatives of the people to control the taxation, a right which, as was said by one of the authorities I have quoted, must be maintained, because it will be taken away from us by the other branch of the Constitution if ever they get the power to do so. We do not propose to give them that power, nor to take any steps which would help them to obtain that power. I therefore move that this Bill be laid aside.

The HON. SIR T. MCILWRAITH said: Mr. Speaker,—From the long memorandum read by yourself and the long speech just made by the Premier, I thought a definite conclusion was going to be put before this House, and that we were going to take some action which would bring the difficulty between us and the other Chamber to some test. I was not prepared for what I consider the somewhat lame and impotent conclusion—the proposal to lay the Bill aside. It is not the first time this question has arisen, and it has been thoroughly debated before. Curiously enough, the last time it came forward was in 1878, when I occupied the position that the hon. the Premier does now. At that time I looked up all the precedents and proved that the other House had no right to interfere with the money provisions of a Bill. Most of that debate was quoted in the debate a fortnight ago, and hon. members will see, if they look it up, that it was conclusively proved that the House of Lords had no right to interfere with money Bills sent up from the House of Commons. I think no doubt exists with regard to that; the difficulty is, and always has been, to connect the House of Lords with the Upper House, and the House of Commons with this Chamber. On that point I think not much light has been thrown—if I may say so with all respect—either by your memorandum or the speech of the Premier. Unfortunately for the contention of this House we have a written Constitution, and it has never been shown that that Constitution has been varied by practice or precedent. It is beside the question to quote South Australian or Victorian precedents; because we have a written Constitution, and we have to be guided solely by that, unless it can be shown that, by any action since, increased powers have been given to the Legislative Assembly, or powers taken from the Legislative Council. I do not believe with the Premier that we have a traditional Constitution besides the written Constitution; all the powers of the Council or Assembly are within the four corners of the Act of 1867. I do not see how we can possibly go beyond it. The hon. member says the contention has been made that co-ordinate powers were intended to be given to the two Houses, and he contends against it; but I maintain that if it had been intended by the framers of the Act to give other than co-ordinate powers it would have been very easy to say so in clause 2. That clause is the stumbling-block we have never been able to get over in this Chamber, and no doubt it is the clause the other Chamber relies on:—

"Within the said colony of Queensland Her Majesty shall have power by and with the advice and consent of the said Council and Assembly to make laws for the peace, welfare, and good government of this colony in all cases whatsoever."

Nothing could be plainer than that ; but it goes on to make a limitation—

"Provided that all Bills for appropriating any part of the public revenue for imposing any new rate, tax, or impost, subject always to the limitations hereinafter provided, shall originate in the Legislative Assembly of the said colony."

If it had been the intention of the framers of that clause to limit the power of the Council to the throwing out of money Bills without the power of amending them, it would have been easy to say, "Provided also that no money Bills sent from the Legislative Assembly shall be altered by the Legislative Council." However, as no more action is to be taken I do not see the use of continuing the discussion. We have not got a single bit further towards a solution of the difficulty with the other Chamber, and the only difference now is that the Council have asserted their right in a more aggressive way and in very much stronger terms than they have ever done before. I thought we should have been afforded an opportunity of bringing the two Chambers more closely together, because I do not believe that they intended to stand exactly by the terms of their message and claim co-ordinate rights with us in the amendment of Bills. I have not read the debate which took place on the subject in the other House, but I do not believe they intended to stand absolutely by what they said, because there is a provision in the Constitution Act which actually limits their rights. I think that a motion ought to have been brought forward by the Premier, not to lay aside the measure, but to take some steps to discover exactly the point where we disagree, with a view to coming to a solution of the difficulty afterwards. As it is now, what is our practical position? We have not got a bit further ; the Council may force us to lay aside any Bill which we send up for their consideration ; and yet the Premier, the other night, when speaking on this matter, said that this would be as good an opportunity as any other of finding out the real point of difference between the two Houses. I consider that we have receded from our position. The Council claims certain rights and we acknowledge them by laying aside the Bill. That is no victory for us. If it is anything at all it is a defeat, and I think we should have stood by our rights and tried to find out some method by which we could come to a satisfactory agreement. There are many ways by which that could be done. The one proposed in your memorandum, Mr. Speaker, is one way ; or some other course might have been pursued, very different to the one now proposed to be adopted—which, by deferring the day of battle, is virtually conceding everything claimed by the other House.

Question put and passed.

ELECTIONS BILL—COMMITTEE.

On this Order of the Day being read, the Speaker left the chair, and the House went into Committee further to consider this Bill.

On clause 93, as follows :—

"1. A person who commits any corrupt practice other than personation, or aiding, abetting, counselling, or procuring the commission of the offence of personation, shall be guilty of a misdemeanour, and on conviction shall be liable to be imprisoned, with or without hard labour, for a term not exceeding one year, or to a fine of any sum not exceeding two hundred pounds.

"2. A person who commits the offence of personation, or of aiding, abetting, counselling, or procuring the commission of that offence, shall be guilty of felony, and any person convicted thereof shall be liable to be imprisoned for any term not exceeding two years with hard labour.

"3. A person who is convicted of any corrupt practice shall, in addition to any punishment hereinbefore provided, be incapable during the period of seven years from the date of his conviction—

(*a*) Of being registered as an elector or voting at any election in Queensland, whether it be a parliamentary election, or an election for any municipal office under any Act relating to local government, or

(*b*) Of holding any such office or any judicial office ; and if he holds any such office the office shall be vacated.

"4. Every person so convicted of a corrupt practice in reference to an election shall also be incapable of being appointed to and sitting in the Legislative Council, and of being elected to and of sitting in the Legislative Assembly, during the seven years next after the date of his conviction, and if at that date he has been elected to the Legislative Assembly or any such municipal office, his election shall be vacated from the time of such conviction."

The PREMIER said he proposed to move some amendments in the 3rd and 4th paragraphs to make them more consistent with the amendments made the other day. He proposed to amend the 3rd paragraph by inserting "three years" instead of "seven," and to leave out all reference to "municipal office." He moved that the word "seven" be omitted with a view of inserting "three."

The HON. SIR T. MCILWRAITH said he put it to the Premier, now that he had been considering these clauses so long, whether the punishment mentioned in addition to that provided by clauses 91 and 92 was at all necessary or just? He did not think it was. Clauses 91 and 92 provided the punishment to be inflicted for corrupt practices. Then, after the culprit had come before a court of law, and had got such punishment meted out to him as the judge considered right, he would be subjected to further punishment under clause 93 ; so that there were actually three punishments for one offence.

The PREMIER said the clauses they had just passed dealt only with candidates who were found guilty of corrupt practices, and it was necessary to provide for the same thing when committed by other persons—agents, for instance, and persons who took bribes. They would be punished not only by imprisonment, but would lose the chance of taking other bribes for three years. He thought it a very good provision. In England it was a very common thing if a borough was corrupt to disfranchise the whole of it for a period of years. Here it was proposed to disfranchise for three years only the person guilty of corrupt practices. The clause under discussion had nothing to do with the candidate unless he was convicted by a jury.

The HON. SIR T. MCILWRAITH said that was no doubt quite correct. His criticism did not apply to the extent that he had made it apply in his previous remarks, because he was looking simply to the position of the candidate or man who was returned ; but at the same time they must remember that the punishment was threefold, and his argument applied so far as that was concerned. Certain punishment was provided for by clauses 91 and 92, and on that followed further punishment by clause 93 ; so that his argument did apply so far as candidates were concerned. Of course some provision would be necessary to catch those who were not candidates.

The HON. J. M. MACROSSAN said he had never heard of a case of bribery in Queensland yet, and it was of no use drawing comparisons between home and the colony, because they knew well that elections had, on several occasions, been carried in England by means of bribes. There was no such thing out here.

The PREMIER : No !

The HON. J. M. MACROSSAN: Personation was not caused by bribery. As he had said before, it was caused by excessive zeal by partisans belonging to either side.

Mr. CHUBB said if the position of the sections were transposed, and 93 were placed before 91 and 92, hon. members would see the scheme of the Bill to be this:—That for committing a corrupt practice, except personation, the party was liable to be tried as a criminal and to receive criminal punishment—either fine or imprisonment. In addition to that, if he happened to be a candidate he was subjected to the consequences set forth in clauses 91 and 92. He (Mr. Chubb) did not object to that. What he did object to was that he thought clause 93 was rather too sweeping; because if they looked at the definition of "corrupt practice" they would see that it was made to include all the following offences—treating, undue influence, bribery, and personation. Personation was specially dealt with, and the remaining offences were treating, undue influence, bribery; and some of the offences were much less weighty than others. For instance, as was pointed out the other night, paying a man to join in a procession or holding a meeting in a public-house would be bribery, and it would be very severe to subject the person found guilty of that to a penalty of £200 or one year's imprisonment; whereas that punishment would not be too severe for persons who committed the offences enumerated in subsection 1—purchasing or selling votes—both of which offences were very grave. His objection was to the severity of the punishment for the minor offences.

The PREMIER said a maximum punishment of £200 or one year's imprisonment would not be very severe.

Mr. NORTON: For giving a man a glass of grog?

The PREMIER: Yes!

Amendment agreed to.

On the motion of the PREMIER, the clause was further amended by the insertion of "parliamentary" before "elections," in line 15.

The PREMIER then moved that the following words, in lines 16 to 18, be omitted:—

"Whether it be a parliamentary election or an election for any municipal office, under any Act relating to local government."

Mr. NORTON said, as they were getting so very moral, why not apply their strict morality to other elections besides parliamentary?

The PREMIER: I do not see any necessity for it.

Mr. NORTON said that at divisional board elections corruption would be practised with the object of gaining personal advantages, as much as at any other elections. He could not see why they should punish corruption in one case and not in another.

The HON. SIR T. MCILWRAITH: How will the clause read when these amendments are made?

The PREMIER: It will read—

"Be incapable, during the period of three years from the date of his conviction—

(*a*) Of being registered as an elector or voting at any parliamentary election in Queensland."

Mr. CHUBB said a man might be an alderman, but not a member of parliament, according to the amendment.

The PREMIER said the Bill was only to relate to corrupt practices at parliamentary elections. Other elections should be dealt with under the Local Government Act. It would be inconvenient to deal with them in the present Bill.

Amendment agreed to.

The PREMIER moved that the words "any such office," in the 19th line, be omitted.

Amendment agreed to.

The PREMIER moved that the word "three" be substituted for the word "seven," in the 24th line.

The HON. SIR T. MCILWRAITH said that the hon. gentleman had, no doubt, studied the effect of the amendments. But how far did they extend? Did they include mayors of towns, members of licensing boards, and JJ.P.?

The PREMIER: Yes.

Amendment agreed to.

The PREMIER moved that the words "appointed to the Legislative Council or" be inserted after the word "been," in the 25th line. A case actually occurred in New Zealand where a member of the Legislative Council was convicted of personation, and his seat was not vacated.

Amendment agreed to.

On the motion of the PREMIER, the words "or any such municipal office," in the 26th line, were omitted.

The PREMIER moved that the word "seat" be substituted for the word "election" in the 26th line.

Mr. SCOTT asked whether the clause applied to treating as defined in clause 88? Could a candidate, or an agent of a candidate, who gave anyone a dinner on the day of an election, or the day previous to an election, or the day after an election, be fined £200?

The PREMIER: Only if he were proved guilty of corruption.

Mr. SCOTT asked if a candidate were answerable for the action of his agent, if the latter chose to give a man his dinner, or a glass of grog, whether against his will or with it, on the day of an election

The PREMIER said a man could not be punished for the act of his agent, unless it was proved that the agent acted by his authority. He had to be convicted by a jury.

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

On clause 94—"Certain expenditure to be illegal practice"—

Mr. PALMER said the clause said no payment should be made on account of any house, land, building, or premises for the exhibition of any address. Would the clause apply if the candidate made use of the large room in the school of arts, for which it was the practice to make a charge for every night it was used? How would the agent or candidate stand if he paid the necessary expenses for holding the meeting—or if he paid a bill-sticker for posting bills?

The PREMIER said the payment was not made for posting up addresses, bills, and notices. It was a common way of evading the law. A man was not paid for his vote, but for putting a line of reading on his wall. The ordinary business of bill-posting was provided for in the 3rd paragraph.

The HON. SIR T. MCILWRAITH said the clause was not necessary, as there was no such offence in the colony.

Mr. BEATTIE said he did not see the necessity for the clause, which could be evaded by the employment of cabs and omnibuses on which to place placards.

Mr. CHUBB said it would be legal for the candidate to make arrangements with a bill-sticker for posting addresses, bills, and notices; and the bill-sticker might make arrangements with the owners of houses, and pay them for letting him stick them up on their premises.

The PREMIER said he did not attach much importance to the clause.

Clause put and negatived.

Clause 95—"Voting by prohibited persons and publishing of false statements of withdrawal to be illegal"—passed as printed.

On the motion of the PREMIER, clause 96 was amended so as to read as follows :—

"A person guilty of an illegal practice, whether under the last preceding section or under the provisions hereinafter contained, shall on summary conviction be liable to a fine not exceeding one hundred pounds and be incapable during a period of two years from the date of his conviction of being registered as an elector or voting at any election held for the electorate in which the illegal practice has been committed."

On the motion of the PREMIER, clause 97 was amended so as to read as follows :—

"If upon the trial of an election petition the Elections Tribunal reports that any illegal practice is proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, that candidate shall not be capable of being elected to or sitting in the Legislative Assembly for that electorate for three years next after the date of the report, and if he has been elected his election shall be void.

"He shall further be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice."

Clause, as amended, put and passed.

Clauses 98 and 99 passed as printed.

On clause 100, as follows :—

"1. No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction.

"2. Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is made in contravention of this section either before, during, or after an election, the person making such payment shall be guilty of illegal payment, and any person being a party to any such contract or receiving such payment shall also be guilty of illegal payment if he knew that the same was made contrary to law."

The HON. SIR T. McILWRAITH said the clause might very well be struck out. There was no necessity for any such illegal payment here at all. He did not think either that it should be considered as illegal payment out here. It might be an illegal payment in England, but it should not be considered an illegal payment here.

The PREMIER said he thought it as well to stop those things in the beginning here.

The HON. SIR T. McILWRAITH : Why should you ?

The PREMIER said it would not be desirable to have processions going up and down the streets with bands of music, flags, banners, or torches, to procure the return of a candidate.

Mr. NORTON : The mayor could stop them.

The PREMIER : Yes ; but the mayor might not want to stop them. They might as well stop such things at once.

Mr. PALMER said he saw by clause 104 that, for illegal payment or hiring, a person was liable on summary conviction to a fine not exceeding £100. That seemed an unusual punishment for such an offence.

The HON. SIR T. McILWRAITH : It is no offence at all.

Mr. PALMER said that, under the Bill, if a man presented another with a blue ribbon or any other distinguishing mark he was liable to a fine of £100. Flags were also mentioned, and they were one of the commonest indications of an election day.

The PREMIER said there was no objection to having them ; the paying for them was the objection. They were not so objectionable as bands of music, of course.

Mr. NORTON said he thought they were beginning to swallow camels. What on earth did they mean by providing that if a man bought a piece of ribbon he was to be subject to a penalty ? A man was not to allow his committeemen to pay for anything they might wear as his mark to show that they belonged to his committee. Why should he not be allowed ?

The PREMIER said the objection was to the corrupt payment for it—paying a man to wear a cockade.

Mr. NORTON said there was nothing corrupt in paying for it.

The HON. SIR T. McILWRAITH said he thought the Premier was wrong and that the clause prohibited a candidate from paying for bands of music, torches, cockades, or ribbons, and did not refer to payments made to a man for wearing a cockade, etc.

Mr. SCOTT said it appeared to him that it was not the man who supplied the ribbon who would be touched by that clause, but the man who went a little further and paid for it. A man who got ribbon on credit and never paid for it would not be liable.

The PREMIER : Oh, yes ; that would be a contract for payment.

Mr. NORTON said if a candidate was not allowed to pay his agent he did not see why they should not also prevent him paying for advertising in the newspapers.

Mr. PALMER said the Premier might, while he was about it, move an amendment stating how much a member should be allowed to pay.

The PREMIER : You can negative the clause if you wish.

Clause put and negatived.

Clause 101—"Name and address of printer on placards"—passed as printed.

On clause 102, as follows :—

"The provisions of this Act prohibiting certain payments and contracts for payments shall not affect the right of any creditor who, when the payment or contract was made, was ignorant of the same being in contravention of this Act."

The HON. SIR T. McILWRAITH said he would like to know whether that was a clause to save the bribee. Why should they put in a special clause to save a man who actually put himself in the way of taking bribes? He thought a contract of that kind should not be encouraged.

The PREMIER said the point taken by the hon. gentleman was a right one. The provisions of the clause related to two previous clauses that had been struck out, and were therefore unnecessary now.

Clause put and negatived.

On clause 103, as follows :—

"It shall not be lawful to use—

(*a*) Any premises on which the sale by wholesale or retail of any intoxicating liquor is authorised by a license;

(*b*) Any premises where any intoxicating liquor is sold, or is supplied to members of a club, society, or association other than a permanent political club;

(*c*) Any premises whereon refreshment of any kind, whether food or drink, is ordinarily sold for consumption on the premises; or

(*d*) The premises of any State school or school in receipt of aid from the Consolidated Revenue Fund, or any part of such premises;

as a committee-room for the purpose of promoting or procuring the election of a candidate at an election.

"Every person who—

Hires or uses any such premises or any part thereof for a committee-room, or

Lets such premises or part, knowing that it was intended to use the same as a committee room,

shall be guilty of illegal hiring.

"Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices, or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid."

The HON. SIR T. McILWRAITH said that subsection 10 of clause 89 provided that a candidate was guilty of bribery who convened any meeting of electors or of his committee in a licensed public-house, and the clause now under consideration made illegal the hiring or using of any such premises or any part thereof. That followed, of course, consequent on the decision the Committee had come to with regard to subsection 10 of clause 89; but he would submit to the Premier, especially after the definition of bribery that was given to them the other night by the Attorney-General, whether it would not be wise to withdraw that clause altogether. He had never heard such a speech as that delivered by the Attorney-General the other evening. The hon. gentleman on that occasion defined a certain act as not being bribery, stating that if he was addressing a meeting outside a public-house, and then, not having seen the faces of the people before him so as to be able to identify a man as Jack or Tom, he called to the publican and said, "Here is £5, give these men a drink," that would not be bribery, although the meeting was an election meeting. If that was the interpretation given by a law officer of the Crown of what bribery was, then the Committee ought to go a little way back and reconsider what they had done in making laws against holding meetings in public-houses. If that was not bribery what was the use of preventing meetings being held in public-houses? But let hon. members just take a common-sense view of the matter and ask themselves what real reason there was against holding an election meeting in a public-house. The publican was a man who built his house for meetings. He invested his capital in that way; and why should he not reap the fruit of it? Why should not candidates be allowed to hold meetings where it was most convenient? Had not the Attorney-General put hon. members up to the way of evading the necessity of meeting in a public-house by telling them that they might address the electors from a barrel outside, by which means an additional thirst would be forced on the community by standing in the sun? He (Sir T. McIlwraith) thought they ought to throw out the clause.

The PREMIER said he thought it was very undesirable that committee meetings should be carried on in public-houses. The provision in the clause was merely an extension of the present law, which prohibited election meetings in public-houses. He did not see why any difference should be made between public-houses and any other places where people could get liquor. As to holding committee meetings in a State school, he thought that was also highly objectionable. Public meetings could, of course, be held there, as they were the only buildings in some districts suitable for such a purpose.

The HON. J. M. MACROSSAN said it was not only public-houses that would be affected by the clause, but ordinary eating-houses; and stores also would come under its provisions. He had often seen refreshments sold in stores. For his own part he did not see any reason against holding a meeting in a public-house. Certainly, holding it outside, as the Attorney-General had suggested, would not prevent drinking.

Mr. CHUBB said that merely holding a committee meeting in a public-house would not induce people to support a candidate. There might be some objection to holding meetings of electors in such a place, but he did not see any objection to a committee meeting being held there. A committee was limited in numbers, and he did not see how the purity of an election would be affected because a candidate held his committee meetings in a public-house.

Mr. BEATTIE said he agreed with the clause except as to subsection (*c*). The majority of halls and other places built for the accommodation of public meetings generally had attached to them places where ginger-beer, fruit, and so forth were sold; and it would prevent committee meetings being held in buildings of that kind. That was certainly not a desirable thing to do.

Mr. NORTON said that subsection (*a*) was also a very objectionable one. Committee meetings were frequently held in stores, many of which held a license to sell two gallons of alcoholic liquors. Meetings were not held there for the purpose of drinking.

The PREMIER moved the omission of the words "wholesale or" in subsection (*a*).

Amendment put and passed.

The PREMIER moved the omission of subsection (*c*).

The HON. J. M. MACROSSAN said that before the amendment was put he should like to know the meaning of the phrase in subsection (*b*), "any permanent political club."

The PREMIER replied that as yet there were no such clubs in the colony, nor was it likely there would be for some time to come. It was not of much consequence whether the words remained in the clause or not.

Mr. CHUBB said that under the new Licensing Bill it was proposed to establish wine licenses. If subsection (*a*) were passed in its present form, committees might meet at wine-shops but not at public-houses.

The PREMIER said the subsection included wine-shops. The object of the clause was to prevent meetings being held at places licensed for the sale of drink, and to restrict facilities for treating or giving electors drink.

The HON. SIR T. McILWRAITH said he did not see any use whatever in the clause. What was the object to be gained by it? Was it to prevent them from bribing the publican by bringing trade to his hotel, or was it to prevent the members of a committee from putting themselves in the way of temptation at the time when an election was going on? Was it not the greatest piece of folly in the world? A committee of that House could not hold its meetings without having a bar down below, on the same premises, where members could have a drink if they felt so inclined; and yet they were to be conscientious enough—he ought to say hypocrites enough—not to have a drink while an election was going on. What was there that applied to an election committee that did not apply to a committee of the House? If a bar on the premises was good for members of a committee of the House, how could it be bad for members of an election committee?

Mr. PALMER said subsection (*d*) was open to grave objections. The terms "school in receipt of aid from the Consolidated Revenue Fund" included schools of arts; and in schools of

arts there were generally rooms set apart for the holding of meetings. But the proviso contracted the entire clause by stating that nothing in it should apply to "any part of such premises which is ordinarily let for the purposes of chambers or offices."

The PREMIER said he did not attach much importance to the clause if hon. members did not think it worth retaining in the Bill.

Mr. BEATTIE said he agreed with the hon. member for Mulgrave that there was no reason why a man should not have a drink at a public-house because he happened to be a member of an election committee; but to allow public-houses to be used for election meetings, and especially on election days, was often the cause of great disturbances, which required a large force of extra policemen to keep down. He thought the clause would work very well. He did not believe that election committees ought to sit in public-houses. There were plenty of private houses that could be engaged for the purpose, and if the members wanted a glass of grog they could go to the public-house and get it.

Mr. CHUBB: That is, in Fortitude Valley.

Mr. BEATTIE: And anywhere else. Fortitude Valley was rather a model place, because there were never any disturbances there, and the publicans were all respectable men. But he knew other electorates where there had been very serious disturbances.

The HON. SIR T. MCILWRAITH: Where?

Mr. BEATTIE said it would be invidious to say. While praising Fortitude Valley he did not intend to condemn other places except in general terms. He hoped the Premier would not omit the clause.

The HON. SIR T. MCILWRAITH said the hon. member had praised Fortitude Valley at the expense of other constituencies. He should like to know those other constituencies, which were just as good as Fortitude Valley, where disturbances had occurred. He had never heard of any.

Mr. BEATTIE: Bundaberg is one.

The HON. SIR T. MCILWRAITH: Never! Bundaberg is far better than Fortitude Valley in that and every other respect.

Mr. FOOTE said he thought the clause was a very good one. Of course it would operate somewhat against districts where rooms could not easily be obtained; but they should be very careful about the purity of elections. As the hon. member for Fortitude Valley said, the clause had worked well and ought to be retained.

The PREMIER said that the remarks of the hon. member for Fortitude Valley showed the reason for some such provision, otherwise on election day the committee-rooms would always be in a public-house. It was the election day that had to be chiefly considered. He proposed to omit subsection (*c*) with the exception of the last word.

Amendment agreed to.

Mr. PALMER said he was anxious to keep within the law, and he would like to get an opinion from the Premier—if the hon. member would not charge for it—as to where he could hold a meeting to address his electors in a township where buildings were scarce? If he paid two or three guineas for the use of a school of arts, would that be an illegal payment under the Act?

The PREMIER: Certainly not. It was only the use of those buildings as committee-rooms that was forbidden. Besides, the subsection did not apply at all to schools of arts; but only to State schools, provisional schools, and grammar schools.

The HON. J. M. MACROSSAN asked if a candidate could not hold a meeting of his friends in a public-house, and yet not come under the Act? He would just have to say, "Gentlemen, this is not a committee meeting—remember that; it is a meeting of myself and my friends." The clause was absurd and inoperative, with the exception of subsection (*d*), which he believed was a very good provision. The clause might be very good in England.

The PREMIER: It is very good here.

The HON. J. M. MACROSSAN: The hon. member had had no experience; he knew nothing of elections outside Brisbane. As for the disturbances spoken of by the hon. member for Fortitude Valley, he had seen elections in places considered to be the most rowdy in the colony, and he never saw any such disturbances. He thought the hon. member must be drawing on his imagination.

The PREMIER said he was not going to suggest how the provisions of the Bill might be evaded.

The HON. J. M. MACROSSAN: But you know how they can.

The PREMIER said it was difficult to make provisions that could not be evaded; but a man trying to evade them would run a very serious risk.

Mr. FOXTON said he presumed subsection (*d*) was not intended to prevent the addressing of electors in State schools; because that was frequently the only building that could be got.

The PREMIER: It only applies to committee meetings.

Clause, as amended, put and passed.

Clause 104—"Punishment of illegal payment or hiring"—passed as printed.

On clause 105, as follows:—

"No action or suit shall be maintainable by any licensed publican or any owner or keeper of any shop, booth, tent, or other place of entertainment against any candidate or any agent of any such candidate, for any liquor, food, or refreshment of any kind, whether for man or beast, supplied upon the credit of any such candidate or agent during the progress of any election under this Act."

Mr. ARCHER said he thought that was a very objectionable clause. When he was travelling through his electorate he had to put up his horse at public-houses, and it was not always convenient to carry change to pay for everything he got.

The PREMIER: Let them trust to your honour.

Mr. ARCHER: Suppose a man had no honour? Then again, he could not tell a man who was canvassing for him that he would pay all his expenses. It was a most extraordinary thing. If publicans were willing to trust a man why should they be prevented from doing so?

Mr. KELLETT said he thought it was a good clause. If the candidate was a decent man, the publicans would give him credit; but what should be put a stop to was, that Tom, Bill, or Harry should go and stick up accounts which the unfortunate candidate had afterwards to pay. He was satisfied the hon. member for Blackall, or any other respectable candidate, could get as much refreshment as he wanted for himself or his friends without carrying about money in his pocket.

Mr. CHUBB said he agreed with the hon. member that the clause was a very good one, but it would enable a dishonest candidate to evade paying his election bill. If he liked, he

could repudiate his hotel bill; and he had it on very good authority that a gentleman who had contested several elections had done that in two or three places.

Mr. PALMER said he did not object to the spirit of the clause, but the last line stated "during the progress of any election." What limit of time would that cover?

Mr. ARCHER said candidates would have to do their canvassing with a fasting stomach.

Mr. NORTON said he did not see why a man should be prohibited from receiving a debt for food supplied. He approved of the provision with regard to liquor; but by the present Licensing Act a publican could not recover any sum for spirits supplied over the value of £2. That would meet all that was intended.

The PREMIER said it was just as well to make the clause apply to the supplying of food. As the hon. member for Stanley said, big bills were sometimes sent in after elections, and sometimes for the supply of dinners. Perhaps a man might be charged for forty or more dinners at 10s. a head, the liquor being given in.

Mr. NORTON said some of the publicans in this part of the world could not be as honest as they were elsewhere.

Mr. DONALDSON said he thought the clause a very good one, but it should provide that agents should not be able to recover for certain services. The clause was aimed at one section of the community only.

Clause put and passed.

On clause 106—"Report exonerating candidates in certain cases of corrupt and illegal practice by agents"—

Mr. NORTON said that according to the clause the onus of exonerating himself lay upon the candidate. It was rather contrary to British law to accuse a man and make him prove he was innocent.

The PREMIER it is quite easy for him to do it.

Mr. NORTON said it was not always easy. That was where the difficulty came in.

The PREMIER: Quite easy if he is innocent, and very difficult if he is guilty.

Mr. NORTON said it would be quite easy for a candidate's agent to implicate him.

The PREMIER said he did not think there was any danger so far as an innocent man was concerned. If an offence had been committed the harm had been done, and a candidate should be compelled to show that he was not responsible for an illegal act committed by his agent. That would be perfectly easy for an innocent man to do, and correspondingly difficult for a guilty man.

Clause put and passed, with amendments substituting the words "Elections Tribunal" for "Elections and Qualifications Committee."

Clause 107 passed with consequential verbal amendments.

On clause 108—

"Every person guilty of a corrupt or illegal practice, or of illegal payment or hiring at an election, is prohibited from voting at such election, and if any such person votes his vote shall be void"—

Mr. ARCHER said it was not stated in the clause who was to be the judge of a person having been guilty of corruption or illegal practice. It could only be the returning officer, according to the clause, and then a man could not be prohibited from voting unless he was found out before he voted. Of course if there were a petition sent in and a scrutiny took place, his vote could be struck out.

The PREMIER said that if they had not adopted the principle of numbering the ballot-papers, all that the Elections Tribunal could do, supposing it was found that the illegal voting was all on one side, was to upset the election. A disallowance of the vote could only take place upon a scrutiny.

Mr. ARCHER said he did not know whether it was correct legal phraseology, but he thought the word "prohibit" did not convey a clear meaning. If a man voted, and his vote were disallowed, that was not prohibiting him from voting, in a strict sense.

Mr. PALMER said that was one of the instances in which they saw the benefit of the clause which provided that the ballot-papers should be numbered.

The PREMIER said the word "disqualified" would do as well as "prohibited." The law said such a man must not vote: a man might do a thing he was not allowed to do; but certain consequences would ensue. He did not think it would make much difference which word was used. He adopted the one he found in the clause because its meaning was tolerably plain.

The HON. SIR T. MCILWRAITH said that what the hon. member for Blackall and the hon. member for Burke wished to draw attention to was that, had the amendment which provided for ballot-papers being numbered not passed, the clause before them and the following one would have been meaningless.

The PREMIER: Not altogether.

The HON. SIR T. MCILWRAITH said they would, except to a very limited extent. The Premier said that if it could be proved that a certain number had voted who were not qualified to vote, assuming that they had all voted on one side, it might overturn the election. That would have been a most unjust conclusion, because they might have voted for a candidate who had no chance in any case. Those hon. gentlemen merely wished to show the value of the amendment they had passed.

Clause put and passed.

On clause 109—"Prohibition of disqualified persons from voting"—

On the motion of the PREMIER, the words "Elections Tribunal" were substituted for the words "Committee of Elections and Qualifications."

The PREMIER moved that the words "whether a parliamentary election or an election for any municipal office" be omitted.

Amendment agreed to.

On the motion of the PREMIER, the word "any" on the 4th line was omitted.

The PREMIER moved that the words "if any such persons vote" be added to the clause.

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

On clause 110—"Limitation of time for prosecution of offence"—

The HON. SIR T. MCILWRAITH asked why the time for prosecution should be extended to a year after the act was committed, or three months after the Elections Tribunal gave their decision?

The PREMIER said he did not think the time was very long. It must be some time after the Elections Tribunal gave their decision, because the offence might not be found out before they inquired into the matter. The ordinary rule was to have no limit to the time for prosecution for a criminal offence, and there was no limitation in the present law. He moved that the

words "Elections Tribunal" be substituted for the words "Committee of Elections and Qualifications."

Amendment put and passed.

A consequential verbal amendment having been agreed to, the clause, as amended, was put and passed.

Clause 111—"Persons charged with corrupt practice may be found guilty of illegal practice," etc.—passed as printed.

The PREMIER moved the following new clause to follow clause 111:—

The provisions of this part of the Act relating to the Elections Tribunal and the incapacities and disabilities to become consequent upon the report of that tribunal in certain cases shall not come into operation until an Act has been passed dealing with the constitution of the Elections Tribunal, and declaring that such provisions shall come into operation.

The provisions of this part of this Act shall not be taken to repeal or otherwise affect the provisions of sections sixty-nine, seventy, and seventy-one of the Elections Act of 1874.

The HON. SIR T. MCILWRAITH said the 2nd paragraph of the clause was very well so far as it went; but they had to provide that the repealing clause they had already inserted should not take effect. That clause provided for the repeal of the whole of the Elections Act of 1874; and they ought now to provide that, notwithstanding the provisions contained in clause 4, until the Elections Tribunal was appointed, sections 69, 70, and 71 of the Elections Act of 1874 should not be taken to be repealed.

The PREMIER said that when the schedule came before the Committee he proposed to insert a provision excluding those clauses of the Elections Act of 1874 from the operation of clause 4.

New clause put and passed.

On clause 112, as follows:—

"In any prosecution under this Act, whether on indictment or summarily, the person prosecuted and the husband or wife of such person shall be a competent witness."

The PREMIER said this was of course a perfectly new provision.

The HON. SIR T. MCILWRAITH said he hoped, as the clause was perfectly new, the Premier would have something to say in defence of it. He himself could not see anything in defence of it. Was it supposed that they could force the wife of a candidate to come forward and give evidence against her husband?

The PREMIER: She is a competent witness.

The HON. SIR T. MCILWRAITH said the clause provided that they could induce the wife of a candidate to come forward and give evidence against her husband. That was against all sense of decency. He did not see why, in defence, a man might not bring forward his wife to give evidence; but it would be a perfectly different thing if a wife could be induced to come forward and give evidence against her husband.

The PREMIER said it was only intended for the defence. "Competent" meant competent to give evidence, but not compellable. If there was any doubt that word could be used.

Mr. CHUBB said it would be better to alter it, because if a wife was a competent witness the court would soon compel her to give evidence.

The PREMIER said the simplest way would be to add the words "for the defence" to the end of the clause, and he would move that as an amendment.

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

On clause 113—"Proof of writ of election facilitated"—

The HON. SIR T. MCILWRAITH asked if it was necessary in a simple case of that sort to bring in the Governor or the Speaker to certify that a writ had been issued for an election? Would not the *Government Gazette* in which the writ appeared be sufficient proof?

The PREMIER said that in the case of a prosecution it was necessary in the first place to prove that there was an election, and the simplest way to prove that was to produce the writ; but it would be very inconvenient at times to produce the writ. The clause was to save expense in that respect by providing that a certified copy of the writ would be sufficient.

Mr. PALMER said, supposing the trial took place in the northern part of Queensland, how was it to be proved?

The PREMIER: By sending a certified copy of the writ.

Mr. GROOM said the present practice was to issue two writs, one of which was kept by the officers of the House, in accordance with the Legislative Assembly Act, and the other was kept by the returning officer, so that in the event of a disputed election he could produce the copy of the writ. Up to the present time that system had worked very satisfactorily.

Clause put and passed.

Clause 114—"Evidence of election"—put and passed.

On clause 115, as follows:—

"1. A person who is called as a witness respecting an election before the Committee of Elections and Qualifications shall not be excused from answering any question relating to any offence at or connected with such election on the ground that the answer thereto may criminate or tend to criminate himself or on the ground of privilege.

"Provided that—

(*a*) A witness who answers truly all questions which he is required by the Committee of Elections and Qualifications to answer, shall be entitled to receive a certificate of indemnity under the hand of the chairman of the committee stating that such witness has so answered; and

(*b*) An answer by a person to a question put by or before the Committee of Elections and Qualifications shall not, except in the case of any criminal proceeding for perjury in respect of such evidence, be in any proceeding, civil or criminal, admissible in evidence against him.

"2. When a person has received such a certificate of indemnity in relation to an election, and any legal proceeding is at any time instituted against him for any offence under this Act committed by him previously to the date of his certificate, at or in relation to the same election, the court having cognisance of the case shall, on proof of the certificate, stay the proceeding, and may in their discretion award to such person such costs as he may have been put to in the proceeding.

"3. Nothing in this section shall be taken to relieve a person receiving a certificate of indemnity from any incapacity under this Act or from any proceeding to enforce such incapacity other than a criminal prosecution.

"4. When a solicitor or other person lawfully acting as agent for any party to an election petition respecting any election has not taken any part or been concerned in such election the Committee of Elections and Qualifications shall not be entitled to examine such solicitor or agent respecting matters which came to his knowledge by reason only of his being concerned as solicitor or agent for a party to such petition."

On the motion of the PREMIER, the clause was consequentially amended by the substitution of the words "Elections Tribunal" for the words "Committee of Elections and Qualifications."

Mr. CHUBB said that if he had read the clause aright it amounted to this: That when a witness answered all questions truly, in the opinion of the tribunal, he obtained a certificate of indemnity, and was not liable to be prosecuted; but if he did not, in the opinion of

the tribunal, answer all questions put to him truly, he did not get a certificate, and became liable. It entirely rested with the tribunal to say whether, in their opinion, the witness answered truly all questions put to him. He recollected the case of a solicitor named Edmonds at home, who was unable to obtain a certificate of indemnity, because, in the opinion of the judge, he had not answered all questions truly, but had prevaricated. The man was subsequently tried and convicted, and received very severe punishment. A witness might have answered truly, but the tribunal might not think that he did so, and, though they could compel him to answer all questions, they might not give him a certificate of indemnity. A stupid witness might, to the best of his ability, answer all questions truly, but in such a way as to give the tribunal the opinion that he had not made a clean breast of the case; and if they did not give him a certificate, under the circumstances, he might be tried for perjury or any other offence which the certificate would cover. It was quite a new law to introduce here, and had been very severely commented upon in England.

The PREMIER said he had never heard of any objection having been made to that clause. It had been in force for a very long time in England in cases of inquiry into corrupt practices. Until lately it had been the custom to appoint special commissioners to deal with such matters, and the commissioners had to certify whether a witness told the truth. If they certified that a witness had done so the witness was indemnified. Without a provision of that kind a person might decline to give evidence because it would criminate himself, and the consequence would be that they would get no evidence. It would be the same as it was under the Land Act of 1868, under which it was not possible to obtain evidence, because every man who knew enough to give evidence was liable to be indicted. The provision under consideration was really necessary if the enactments against corrupt practices were to be seriously put in force. As to how they were to protect a man who told the truth, he could not see any better way than by providing that he should receive a certificate from the Elections Tribunal. A provision of that kind was essentially necessary if corrupt practices were to be found out.

Mr. ARCHER said he thought that in a court of law a witness was exempt from giving evidence that might criminate himself. Was it not a fact that he could refrain from giving such evidence? Under such circumstances, of course, no man would answer a criminating question; he would, at all events, try to screen himself as much as possible. The 3rd subsection of the clause under discussion stated that that section should not be taken to relieve a person receiving a certificate of indemnity from any incapacity under that Bill, or from any proceeding to enforce such incapacity other than a criminal prosecution. In his opinion the clause would have the effect of really preventing the truth being known, which was the thing they particularly wanted to know.

The PREMIER said he was quite certain that it would have the very opposite effect.

Mr. ARCHER: In what way?

The PREMIER: Because the only way a man could save himself was by telling the truth. If he told lies he could be prosecuted for perjury. If he told the truth he could not be prosecuted in any way; he might have been guilty of the grossest corruption, but he could not be prosecuted. In that respect the provision was much more merciful than the law in reference to insolvency. Under the Insolvency Act a man was compelled to answer questions put to him, and the evidence he gave could be used against him. There was nothing in the clause before the Committee inconsistent with the principles of natural justice. He thought it was a very merciful provision.

The HON. SIR T. McIWRAITH said he did not think that what the Premier had said was a correct statement of the case. The hon. gentleman said that the only safety for a man was to tell the truth, whereas the only safety a man had was that he got a certificate from the Elections Tribunal that he had told the truth. That was a very different thing. The witness might answer fairly what he considered to be the truth, and yet might not answer truly, and in that case he might be refused a certificate. He (Sir T. McIlwraith) thought the clause ought to read that if a man answered fairly—that was, if he gave his evidence fairly—he ought to be entitled to a certificate; not if he gave it truly, because that was entirely a matter of opinion of the Elections Tribunal. Of course, the other thing was also a matter of opinion; but, as he had pointed out, it could be easily understood that a man, in answering truly according to his lights, might be actually telling an untruth.

The PREMIER said he did not think any better definition could be given. Supposing a man answered falsely, and it was proved to be false, why should he be protected? What assistance had he given to doing right? The idea of the clause was that if a man, having done wrong, was willing to repair it as far as he could by telling the truth he should be protected.

The HON. SIR T. McILWRAITH: But take the case of a man who has not told the truth, and who has not answered, as far as he is aware, falsely.

The PREMIER said a man might answer, "I do not remember," but he should not say that that man answered truly, and he should certainly not give him a certificate. Any president of a tribunal could tell whether a witness was answering truly or whether he was trying to deceive. He felt the more confidence in the clause, because it had been the law in Great Britain for a number of years, and had resulted in a great deal of good.

Amendment put and passed; and clause, as amended, carried.

On clause 116, as follows:—

"The Committee of Elections and Qualifications, when reporting that certain persons have been guilty of any corrupt or illegal practice, shall report whether those persons have or not been furnished with certificates of indemnity; and such report shall be laid before the Attorney-General, accompanied with the evidence on which such report was based, with a view to his instituting or directing a prosecution against such persons as have not received certificates of indemnity, if the evidence is, in his opinion, sufficient to support a prosecution."

On the motion of the PREMIER, the 1st line of the clause was amended by the substitution of the words "Elections Tribunal" for the words "Committee of Elections and Qualifications."

Mr. CHUBB said it might happen at some time that there might not be such an officer as an Attorney-General. Provision was made for the appointment in his place of a Minister of Justice, and if that should happen the result might be rather awkward.

The PREMIER said the Act which provided for a Minister of Justice also provided that the Minister of Justice should perform all the duties that were cast upon the Attorney-General by any Act of Parliament, so that no inconvenience could result from it,

Clause passed with two further verbal amendments.

Clauses 117, 118, and 119 passed as printed.

On clause 120, as follows :—

"Every police magistrate, clerk of petty sessions, or officer or member of the Police Force, who, during the time he continues in such office, by word, message, writing, or in any other manner endeavours to persuade any elector to give, or dissuade any elector from giving, his vote for any candidate, or endeavours to persuade or induce any elector to refrain from voting at any election, shall forfeit the sum of one hundred pounds, to be recovered by any person who shall sue for the same without collusion within six months after the commission of the offence"—

Mr. PALMER asked if the forfeiture of £100 was absolute, or whether it might be any sum up to and not more than £100?

The PREMIER said the forfeiture of £100 was absolute, and the amount might be recovered by action. If any person brought an action the amount went to the informer. It was not a fine; it was a very common provision in cases of that kind.

Mr. SHERIDAN said he could not see why police magistrates or clerks of petty sessions should be prevented any more than any other members of the Public Service from interfering with election matters. He was of opinion that it would be better for the whole service if no Civil servant had the privilege of voting, but he could not see why those particular officers should be specially picked out. In former years the police magistrates had control of the Police Force, but they had nothing to do with the police now, nor had the clerks of petty sessions. As a rule they were selected because of their respectability and intelligence, and because they were what were known as gentlemen; and he could not understand why they should be placed in that awkward position.

The HON. SIR T. McILWRAITH said it seemed to him that the clause was one which had slipped in without any consideration. It was called "A penalty for undue influence by public officers" in the side-note, but it was nothing of the kind; all officers except police magistrates and the police might do as they liked. Where was the undue influence? Why should not a policeman or a police magistrate express his opinion about a candidate? That was not undue influence. The clause defining undue influence said that a man would be guilty of it if he—

"Makes use of or threatens to make use of any force, violence, or restraint, or inflicts or threatens to inflict, by himself or any other person, any temporal or spiritual injury, damage, or harm, or loss upon or against, or does or threatens to do, any detriment to, any person," etc.

Under the present clause an expression of opinion by a public officer that A was a better man than B would be sufficient to bring punishment on him. It was ridiculous to single out a particular section of the community and prevent them from expressing their opinion. A police magistrate should have perfect liberty to express his opinion privately: of course if he did it in public they could take hold of him.

The PREMIER said those officers were excluded from voting; and there was just the same objection to their taking part in an election, by inciting others to vote against, or for, any particular candidate. Nothing could be more indecent than for a police magistrate or policeman to go about canvassing for a candidate; but he had heard of its being done. That clause had been law for a long time, and he thought it was a very salutary law.

Mr. NORTON said the clause went very much beyond canvassing. If a police magistrate or police officer expressed his opinion to a friend who had asked his advice—even if they were both of the same political party—he would come within the operation of the clause. The clause might have been aimed at canvassing, but it went a great deal further.

The PREMIER said the intention of the clause was to prevent them from interfering with elections at all; they were neither to vote nor interfere.

Mr. SHERIDAN said it was quite true it was a very old provision, and it was quite time to replace it by a new one. He noticed that there was an appeal in certain cases to district court judges; and why should not the rule be made to apply to them and to the judges of the Supreme Court, and all the officers of the courts? They were in exactly a relative position to police magistrates, and if the rule applied to the one it should apply with equal force to the other—in fact, to the whole of the Civil Service.

Mr. HAMILTON said that if the clause were passed it would prevent a police magistrate expressing his opinion of a candidate either privately or publicly, because that could be construed into an attempt to persuade an elector to vote in a particular way. The Premier had said that it would be indecent for him to do so, but it would be just as indecent for any other public servant, yet no others were mentioned. He did not see why the rule should be applied to one branch of the Civil Service alone.

Mr. ANNEAR said he hoped the Premier would make it apply to all public officers. There were returning officers in the different electorates of the colony, and he maintained that no Civil servant should be called in to take part in an election. He knew that in Maryborough a very prominent Civil servant was called in to be poll-clerk, and he took a very prominent part in the election. He went so far as to pay one man's fare to leave the town, in the event that if he remained in the town and voted for him (Mr. Annear) he would be sacked. He knew that was true, and he could prove it any time. He did not see why a police magistrate should be excluded. He would as soon trust the police magistrate of Maryborough as any man, yet the clause provided that police magistrates should be excluded. It was not right for any Civil servant to take part in an election in a prominent way. He would go so far as to give the police a vote. He would not be frightened to see everyone in the colony twenty-one years of age exercise a vote at election time.

The HON. SIR T. McILWRAITH said there was no doubt that in previous discussions on the Bill they had entered fully into the question whether the police should have a vote or not. It had been decided by a narrow majority that the police should not have a vote; and that was decided on the ground that the police, being the peace-keepers on the day of an election, would have their blood roused by being participators in the voting. There might be a little said in favour of that, but the question now was a very different one. An additional disqualification was declared, and they were asked now to give any scoundrel the right of recovering a £100 penalty from a man who simply wrote an expression of opinion as to the fitness of a candidate. Not only did they attack the police—who were the only people disqualified previously—but they now proposed to prohibit police magistrates and clerks of petty sessions from voting. Was that not really ridiculous, especially in a country where influence of any kind was so little used, and more especially not by police magistrates! The clause, he was convinced, would be thoroughly inoperative, and it suggested an insult to a portion of the community who certainly did not deserve it.

The PREMIER said the clause was nothing new. All police magistrates and police officers accepted their offices under those conditions, and he did not see why the conditions should be withdrawn. The 8th clause dealt with members of the Police Force, and the 41st section dealt with police magistrates and clerks of petty sessions. Their names might be on the electoral rolls, because it was sometimes convenient to make those gentlemen returning officers, but they were not allowed to vote, according to the present law, except for the purpose of giving a casting vote, and they were prohibited from influencing electors to vote for other people.

The HON. SIR T. McILWRAITH: No part of the Bill has taken away the right to vote of police magistrates.

The PREMIER: Yes; section 41.

The HON. SIR T. McILWRAITH said that clause did not take the right away. It only referred to cases where the police magistrates were returning officers.

The PREMIER said clause 41 provided that police magistrates and clerks of petty sessions should not vote unless they were returning officers and had to give a casting vote. They had never been allowed to have votes in these colonies.

Mr. SHERIDAN said that supposing the police magistrate at Maryborough was a freeholder in Brisbane, was he prohibited from voting?

The PREMIER: Yes.

Mr. HAMILTON said there was something very algerine in providing that a British subject was liable to a penalty of £100 for exercising his liberty as a subject—for simply saying whether he considered a man a desirable man or not to represent him in Parliament. As the member for Maryborough said, if the clause applied to one branch of the service it should apply to all branches. It was quite as indecent for the Civil servants belonging to any other branch of the service to express their opinions as it was for the police magistrates.

The HON. SIR T. McILWRAITH said that if the construction the Premier had put upon clause 41 had been understood to be the proper construction when the clause was passed he did not think it would have passed. The disqualification of electors was given in clause 8, and there police officers and police were disqualified, but police magistrates and clerks of petty sessions were allowed to have their names on the roll. Special provision was made, but apparently only to be allowed to apply when there was any occasion for those men giving a casting vote. No doubt that was a section from the old Act, but that was no reason why the law should not be amended now. He believed they had no right whatever to exclude a certain portion of the community from their right to vote, and no special reason could be given why police magistrates or police should be liable to an action as intimated in clause 120. It was quite evident that the Premier, in drafting the Bill, had put a different construction on the clause to that which it bore, because he put in the marginal note that the clause was to provide against undue influence exercised by public officers; but the clause struck at influence that might not be undue. He did not think it was undue influence for a policeman or a police magistrate to express his opinion to a friend, either by word of mouth or in writing, and those unfortunate men would not need to go canvassing in order to come under the operation of the clause. Even if they expressed an opinion as to the merits of a candidate they would be rendered liable to a penalty of £100. That he was sure was not meant. The penalty provided was against influence of any sort, and it was provided, not against all public officers, but only a very small section of them.

The PREMIER said he thought the provision was a very excellent one. A police magistrate was a local judge, and it was of the greatest importance that he should be impartial, and be considered to be impartial. If he was allowed to take part in elections his influence for good was gone. Personally, he should consider a police magistrate worthy of being dismissed if he took a prominent part in elections. The provision as it stood existed under the old Act, and he saw no reason whatever for making an alteration.

The HON. SIR T. McILWRAITH said he did not think there was a member of the Committee who did not agree with the Premier in condemning the action of police magistrates or Civil servants generally in taking a prominent part at elections; but the clause touched the private lives of police magistrates and clerks of petty sessions, who, according to it, would be liable to a fine of £100 for endeavouring to persuade electors from giving a vote or influencing the giving of a vote. Expressing an opinion on the eligibility of any of the candidates would be quite sufficient under the clause to render him liable to a penalty of £100. Why should that be so? There was no reason for it. Public opinion demanded that police magistrates should not take part in elections. No Government could afford to keep a police magistrate in his position who did take an active part in elections. Therefore they had at present all the good they desired in that respect, and why go further and cast an unnecessary slur upon police magistrates by inserting a clause of that kind?

The COLONIAL TREASURER said one would imagine that the clause was a new one that had been introduced.

The HON. SIR T. McILWRAITH: I have just said it was not. You need not try to instruct me in that way.

The COLONIAL TREASURER said he presumed that he was quite as much at liberty as the hon. gentleman to express his opinion, and certainly he had not taken up so much of the time of the Committee in discussing the question. He did not see that there was any practical bearing in the amendment sought to be introduced by the hon. member for Mulgrave. In the past they had heard no complaints about the disadvantages to the police through the clause being in the present Act. If they had some proof before them that the Police Force were placed at great disadvantages, or that police magistrates suffered grave disabilities by the existence of the clause in the present Act, he could quite understand the contention of the hon. gentleman in endeavouring to have it eliminated; but he did not think he (Sir T. McIlwraith) could lay his finger on a single case of the kind. He (the Colonial Treasurer) held that it was very desirable that police magistrates and the Police Force should be relieved of all suspicion or chance of being considered private canvassing agents. Hitherto they had been relieved from that equivocal position, and he thought it would be a very unwise thing to alter their condition in that respect. It was, he considered, a fortunate thing for them that they were kept out of the arena of politics.

The HON. J. M. MACROSSAN said the contention of the hon. gentleman who had just sat down was one of the old stock arguments used against the extension of the franchise — that people did not desire it, and did not suffer any

wrong by not being allowed to exercise it. In the same way the hon. gentleman now argued, that because the police did not complain therefore they did not suffer under their present disabilities. He (Hon. Mr. Macrossan) did not know whether they complained or not; but he never could see why police magistrates and policemen should be prevented from voting. A man did not give up all rights of citizenship because he became a policeman. He (Hon. Mr. Macrossan) did not quite believe in Civil servants voting, but he contended that they should make no distinction—that if they were going to keep the police disfranchised they should disfranchise all Civil servants—place them all on the same footing. Now, not only would a policeman be disfranchised, but by the clause before the Committee he would be prevented from expressing his opinion on an election. That was rather a tyrannical way of dealing with the police; and yet the hon. gentleman said as they did not complain that therefore they suffered no wrong. If they did complain perhaps they would not be policemen very long.

Mr. HAMILTON said it appeared to him that the clause had too much of the Russian aspect about it. He had noticed that their legislation had that tendency at the present time. The only justification for the clause was that no police magistrate should be allowed to canvass at an election; and if he did canvass he should be punished. That was perfectly right, and let them make some provision by which police magistrates and clerks of petty sessions should be punished for so doing; but the clause went further, and practically closed the mouth of a police magistrate or clerk of petty sessions from expressing his opinion privately, publicly, or in any other way, with regard to a candidate. It had not been shown that it was justifiable to punish such an officer for expressing his opinion simply in regard to the merits or demerits of a candidate. If it was considered desirable to punish him for canvassing at an election let them render that a punishable offence, but not prevent a man from even expressing his opinion, and exercising that liberty of speech which every colonist should be allowed to exercise.

Mr. MACFARLANE said it appeared that the objection to the clause on the other side of the Committee was to not allowing police magistrates and clerks of petty sessions to express their opinions, and he thought that objection would be met by leaving out the words "by word, message, writing, or in any other manner." If that amendment were made it would still be quite possible to detect and punish any person who tried to dissuade or persuade electors, or in any other way to affect the result of an election.

Clause, as amended, put; and the Committee divided :—

AYES, 18.

Messrs. Rutledge, Miles, Griffith, Dickson, Dutton, Moreton, Bailey, Foote, Mellor, Isambert, Jordan, White, McMaster, Wakefield, Beattie, Macfarlane, Salkeld, and Groom.

NOES, 12.

Sir T. McIlwraith, Messrs. Archer, Chubb, Norton, Sheridan, Annear, Hamilton, Macrossan, Lissner, Govett, Palmer, and Ferguson.

Question resolved in the affirmative.

On clause 121—

"1. Every returning officer who, after having accepted office as such, wilfully neglects or refuses to perform any of the duties which by the provisions of this Act he is required to perform shall for every such offence forfeit and pay a sum not exceeding two hundred pounds.

"2. Every justice, presiding officer, or other officer or person who wilfully neglects or refuses to perform any of the duties which by the provisions of this Act he is required to perform shall for every such offence forfeit and pay any sum not exceeding fifty pounds.

"3. Such penalties may be recovered, with full costs of suit, by the first person who shall sue for the same, without collusion, within six months after the commission of the offence. Provided that the Governor in Council may mitigate or wholly remit any such penalty or forfeiture."

The HON. SIR T. McILWRAITH said there was no change in the law as it stood at present, but he had always thought it very hard upon the returning officer, and it was not making the position very acceptable to any members of the community except those whom the Government forced to accept it. A great many duties were placed upon the returning officer, for which he was paid nothing. If he did not do his duty he was liable to a fine, while the work was entirely honorary.

The PREMIER: It is considered a great honour.

The HON. SIR T. McILWRAITH said the result was that in three-fourths of the constituencies the Government had to enforce the appointments. Under the clause he was sure they would get no man with a knowledge of his responsibility to accept the office.

The PREMIER said that was not his experience. If a man took the office there must be some punishment if he wilfully neglected or refused to do his duty. The only mistake in the clause was that the punishment was not severe enough. If all the returning officers refused to do their duty it would be extremely inconvenient, and there would be a breakdown somewhere. The returning officers need not take the office unless they liked.

The HON. SIR T. McILWRAITH said the clause would exclude good men from the office. There was neither emolument nor honour attached to the office, and the Government would have to confine the duty to police magistrates.

Clause put and passed.

On clause 122, as follows :—

"Every presiding officer or other person who places or is privy to placing in a ballot-box a ballot-paper which has not been lawfully handed to and marked by an elector, shall be guilty of felony, and shall be liable on conviction to be kept in penal servitude for any period not exceeding seven years and not less than two years, or to be imprisoned for any term not exceeding two years with or without hard labour. Proof that a greater number of ballot-papers is found in a ballot-box, or is returned by a presiding officer as having been received at a polling place, than the number of electors who voted at such polling place, shall be *primâ facie* evidence that the presiding officer at such polling-place was guilty of an offence against this section."

The HON. SIR T. McILWRAITH said that was another fancy clause.

The PREMIER: It is a very nice clause.

The HON. SIR T. McILWRAITH said it was very stupid in some of its provisions. It was provided in clause 62 that the returning officer or presiding officer should make a mark against the name of any individual who had voted, and in the case of a scrutiny that was to be *primâ facie* evidence that that person had voted, so that the proof of how many persons voted was to be furnished to the Elections Tribunal by the returning officer. The clause before them provided that proof of a greater number of papers being found in the ballot-box than there were electors should be *primâ facie* evidence that the presiding officer at such a place was guilty of an offence. He would only have to make the number of ticks correspond with the number of names on the roll, and he would be clear. What was the use of making a clause when a man had the evidence in his own hands?

The PREMIER said the mark placed against the name on the roll was *primâ facie* evidence of a man having voted, just as the number of

papers in the ballot-box was *primâ facie* evidence of it. There was the case of California Gully where there were only ten people present and over 100 ballot-papers in the box. By the clause the presiding officer could be convicted, and very properly so.

The HON. J. M. MACROSSAN: And get seven years' penal servitude?

The PREMIER said it would not be a bit too much. A man who was proved guilty deserved all that.

Mr. NORTON said there was one amendment which might be made. It was possible that people might put papers into the box unknown to the presiding officer, who in such a case could hardly be held responsible. That might be met by inserting after the word "papers," in the 12th line, the words "initialed by the presiding officer." That would be a protection to the presiding officer.

The PREMIER said that would necessitate the proof of his handwriting on every paper, and render a prosecution impossible. The presiding officer should see that no papers were put in without his knowledge. Of course no harm could be done, because the papers would all be rejected by the returning officer.

Mr. HAMILTON said the clause was very desirable. At the same time, the instance adduced by the Premier in proof of its necessity was not a very happy one. The persons accused of stuffing the ballot-box at California Gully were tried and discharged, in spite of the efforts of the Government to prove them guilty. But the returning officer at Mulgar, who stuffed the boxes on behalf of the Government candidate, was tried and found guilty.

The HON. SIR T. MCILWRAITH said the Premier had missed the point of his objection. In a case of stuffing the ballot-box, suppose the criminal to be the presiding officer: he knew how many false ballot-papers there were, and on the list before him he would merely put so many more ticks to make the number correspond with the number of papers in the ballot-box. In that case, where the presiding officer was the real criminal, there would be no *primâ facie* evidence against him; but suppose he was not the criminal, and that somebody else stuffed the box, then, according to the clause, there would be *primâ facie* evidence against him. So that the fact of his not being the criminal was the only reason for there being any *primâ facie* evidence against him, and that was ridiculous.

The PREMIER said the hon. gentleman did not distinguish between the meaning of *primâ facie* evidence and the meaning of exclusive evidence. The number of names ticked off being the same as the number of ballot-papers was *primâ facie* evidence in favour of the presiding officer, but it was neither exclusive nor conclusive evidence. If he had not ticked off an equal number of names it would be very good evidence against him; but if he had ticked them off it would be *primâ facie* evidence in his favour, and he would have to be proved guilty by substantial evidence.

The HON. SIR T. MCILWRAITH said he admitted there was *primâ facie* evidence against someone, but it was not against the presiding officer.

The PREMIER said the presiding officer was in charge of the ballot-box. If the box were stuffed with papers bearing his initials, was it not *primâ facie* evidence against him? Nothing was said about initials, because that would necessitate the calling of witnesses to prove the handwriting of the presiding officer. Those papers which were not initialed were rejected, and no prosecution could take place with regard to them.

Clause put and passed.

On clause 123, as follows:—

"Every person who wilfully misleads any electoral registrar in the compilation or preparation of any list, or who wilfully inserts or causes to be inserted therein any false or fictitious name or qualification, shall on summary conviction of any such offence be liable to a penalty not exceeding twenty pounds, or to be imprisoned for any period not exceeding three months."

Mr. BEATTIE said the clause was necessary, but there was one phase of the question not taken into consideration—no provision was made in regard to the omission of names from the lists. That had been the subject of complaint in most electorates. He did not know by whom names were left off, but he knew of people who had been freeholders in the electorates about Brisbane for the last twenty years, and who had been constantly on the roll, a good many of whose names had been omitted during the present year. Provision should be made, when the electoral registrar received incorrect information from individuals depriving men entitled to be placed on the roll of their votes by having their names struck off, for the punishment of those individuals.

The PREMIER said the case referred to was provided for by the 119th section. He did not understand how those things had been done lately; because under the present law notice had to be given, in order to give the persons interested an opportunity of showing that they were not disqualified.

Mr. BEATTIE said he did not bring any charge against the registrars, because he believed they were honourable men. The wrong was done by somebody else, and they wanted to find out by whom it was done. He had often thought it was a mistake on the part of the returning officer in making up his lists

Clause put and passed.

Clause 124—"False answers punishable as misdemeanour"—put and passed.

The PREMIER moved the following new clause, to follow clause 124 as passed:—

1. Every returning officer, presiding officer, poll-clerk, scrutineer, or other person, who knowingly and wilfully unfastens the fold upon a ballot-paper within which the number of an elector is written, unless he is by the lawful command of some competent court or other tribunal required so to do; and
2. Every returning officer, presiding officer, poll-clerk, or scrutineer who attempts to ascertain or discover, or directly or indirectly aids in ascertaining or discovering the person for whom any vote is given, except in the case of a person voting openly, or who, having in the exercise of his office obtained knowledge of the person for whom any elector has voted, discloses such knowledge unless in answer to some question put in the course of proceedings before some competent court or other tribunal;

shall be guilty of a misdemeanour, and on conviction thereof shall be liable to imprisonment for any term not exceeding two years, with or without hard labour.

Mr. CHUBB said he wished to draw the attention of the Premier to a matter he had mentioned the other night, to provide against a recurrence of such a case as the Burnett case at the last election. He wished to prohibit anybody but the voter from marking the ballot-paper. He did not think the new clause provided for that. What he wanted was to put words into the new section making it an offence for any person other than the voter to mark a

ballot-paper. He proposed to add the following words after the 2nd subsection :—

And—

3. Every returning officer, presiding officer, poll-clerk, or scrutineer, who places upon a ballot-paper any mark or writing not authorised by this Act.

The PREMIER said he had no objection to the amendment.

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

Clauses 125 and 126—"Penalty for breaking seal of or opening parcel or packet," and "Prosecution on summary conviction and appeal to district court"—passed as printed.

The PREMIER said that two or three times during the progress of the Bill attention was called to the unsatisfactory state of the existing electoral rolls, and he was asked—he thought first by the hon. member for Townsville—whether some scheme of purging and purifying the rolls might not be introduced into the Bill. There was no doubt that for many years past the rolls had been in an unsatisfactory state, and required purging. He knew that in some cases there were from 500 to 600 persons on a roll who had ceased to be qualified—who were either dead or had gone away from the district. The present would be a convenient time to adopt some plan for purging the rolls, if it was done at all, because in all probability the House would be called upon, after next year, in which the census would be taken, to consider a Redistribution Bill. In view of that it was particularly desirable that the rolls should be purified. He did not recognise the number of electors as the proper test in a matter of that kind, but it would be useful information at any rate. After the redistribution measure was passed fresh rolls would have to be compiled from the existing ones for the new electoral districts, and it was therefore specially desirable that the rolls should be put in a satisfactory condition next year. As he had promised, he had given the matter his best consideration with his colleagues, and had prepared amendments, of which he had given notice, and which he thought would carry out that object as conveniently as could very well be done. At the present time the electoral registrar, who was the clerk of petty sessions, was supposed to leave off the roll the names of persons who he knew were disqualified or had left the district. He (the Premier) supposed that the persons whom the registrar did not know were more numerous than those he did know. However, the registrar frequently omitted to leave names off, and the procedure went on from year to year, until in some cases, as he had said, there were hundreds of names on the roll which ought not to be there. The scheme that he suggested was that next year—in May, or three months before the time for the compiling of the roll, which would take place in August—the electoral registrar should send out a notice and a form of claim made out in the manner prescribed by the Bill, and with full directions for filling it up, to every elector, telling him to fill up the form and return it before the 1st of August, otherwise his name would be left off the roll. That claim after being filled up might be returned post-free by the elector. If an elector failed to send back the claim his name would be omitted from the roll unless the registrar knew of his own personal knowledge that the elector possessed the necessary qualification, or unless somebody who knew him made a solemn declaration to that effect. When a person signified by making a claim what were his qualifications, or somebody who knew made a declaration that he possessed the requisite qualifications his name would be put on the list. Then, when the revision court sat next year, the court would look at the claims, and question the registrar as to electors put on of his own knowledge; and if it appeared that any of them were not qualified, the names would be left off the list. When the list was made up, if, after a claim had been sent in to the registrar, a man died or was otherwise disqualified, a mark would be put opposite his name, as in other cases. Only those proved to be permanently entitled to vote would be put on the roll. He could not think of a better plan than that. It was better than going round collecting names, a plan which had been tried and had not been very successful; but if any hon. member could suggest a better scheme he would be glad. As far as he could see at present, that which he proposed was the best that could be devised under the circumstances. It might be objected that a person might not receive the notice sent to him, and his claim might therefore not be sent in; but he would point out that the revision court would meet in the month of November following, and that persons left off would not only have the opportunity of sending in their claims to the registrar, but would still have to the first Tuesday in October to send in their claims for registration if their names were omitted from the list, so that if any trouble was taken by anybody to see what names were not on the list there would be no difficulty in that respect. He believed the scheme was as fair a one as could be devised, and that it would be productive of very great good. It was especially desirable that a scheme of that kind should be adopted now, for the reasons he had already mentioned. It would be inconvenient to rush the matter just before a general election, and it was desirable that it should be arranged as soon as possible. He would be pleased if the scheme met with the approval of the Committee. Of course, the provisions were only temporary. He moved that the following new clause stand part of the Bill :—

PART VIII.—TEMPORARY PROVISIONS.

In the month of May, one thousand eight hundred and eight-six, every electoral registrar shall send by post to every person whose name appears on any annual electoral roll then in force as an elector for any electoral district or division for which such electoral registrar is registrar, at the address of such elector, so far as the registrar can ascertain it, a notice in the form hereinafter set forth, together with a form of claim in the form hereinbefore prescribed. The notice shall be also accompained by an envelope having written or printed thereon the words "the electoral registrar for the district of at ," naming the district for which and the place at which the electoral registrar acts.

The notice shall be in the following form or to the like effect :—

To A.B., of .

You are hereby required to fill up the enclosed form of claim in such a manner as to show your qualification as an elector for the electoral district of and to send it to me before the first day of August next.

The claim may be posted in the enclosed envelope at any time before the first of August next without any stamp being required.

If you do not send the claim before that day your name will be omitted from the electoral roll.

C.D.,

Electoral Registrar for the Electoral District of

Any envelope directed as aforesaid or to the like effect shall, if posted at any time before the first day of August at any post office, be forwarded to the electoral registrar to whom it is directed free of postage stamps.

The HON. SIR T. MCILWRAITH said he thought the clause proposed by the Premier would meet the deficiency in the Bill pointed out by the hon. member for Townsville. The only point he was anxious about was the provision which allowed the electoral registrar to put on the electoral list the names of persons who, of his own knowledge, were entitled to regis-

tration. For his part he did not see why an electoral registrar should be put in a position to do a thing which could not be done by any other individual except upon proof, or by making a solemn declaration that he knew the person whose name was proposed to be put on the roll had the necessary qualification. There was, no doubt, a provision further on under which the electoral registrar might be questioned as to the knowledge on the strength of which he put the voter's name on the list, but he thought the declaration of some person who knew the facts ought to be perfectly sufficient. Of course that would not prevent the registrar, if he knew of any person, say, at home, who was really entitled to be on the list, from putting the name on it; but any other person should be allowed to do the same on making declaration and giving proof. The whole clause might be considered objectionable on the score that a large number of persons might, through absence from the colony or other reasons, drop off the rolls; but that was a very small objection compared with the advantages that would result from it. The only objection he had to it—and it was not a very strong one, although quite valid—was that the power given to the registrar should not be extended to others on making the declaration and giving proof.

The PREMIER said he would say what he had to say on that point when they came to the next clause, which dealt with it.

Mr. PALMER asked what length of time was allowed for the return of the applications to be enrolled?

The PREMIER: Two months.

Mr. PALMER said that would be quite insufficient in very large districts, especially in mining districts. For instance, John Smith might have qualified as a voter for the Cloncurry two years ago, and was perhaps mining now on the Etheridge, and his name might be left off the list. That would be the case in hundreds of instances in large districts if only two months were allowed. He would also suggest that the Premier should cause advertisements to be inserted in the local papers calling attention to the fact that names were being left off the rolls. Without that it would never be known in many distant places.

The PREMIER said that if two months were considered too short a time—although he did not think it was—it could easily be extended by inserting "April" instead of "May." With reference to advertisements, they would be issued from the Colonial Secretary's Office; and it was intended, as a matter of administration, to insert them in the *Gazette* and the various local papers during May and June, calling attention to the fact that persons must send in their claims.

Mr. PALMER: Can a person afterwards call and have his name enrolled?

The PREMIER: If his name is left off he has the whole of September to apply to have it put on.

Clause put and passed.

On the following new clause :—

If any elector whose name appears in an annual electoral roll, and to whom such notice is sent by post, does not send to the electoral registrar before the first day of August, one thousand eight hundred and eighty-six, a claim showing his qualification as an elector, the electoral registrar shall omit his name from the electoral list compiled by him in that month, unless—

(1) Such elector is personally known to the electoral registrar as possessing a qualification as an elector for the electoral district; or

(2) Some person, personally acquainted with the facts, proves by solemn declaration delivered to the electoral registrar before the twentieth day of August that such elector possesses a qualification as an elector for the electoral district.

The PREMIER said that with regard to the objection raised by the hon. member for Mulgrave it was impossible to lay down an abstract rule of right and wrong. It seemed rather absurd to leave a man's name off the list if he was known to be qualified. Take the case of a large landholder in the country, or a large property owner in Brisbane, residing in England—it was known that they were qualified, because their land was there. It was useless sending their claims to England, for they would not reach there in time; but why should their names be left off? The clause certainly gave a considerable power to the registrar; but it was not a power that was likely to be abused.

Mr. BAILEY said the question was not one of leaving names off the roll, but putting them on.

The PREMIER: It is a question of not putting them on.

Mr. BAILEY said it was a great power to give to the registrar without extending it to others. The registrar might say he knew that certain persons ought to be on the roll whose names had never appeared there. The clause, as it stood, certainly gave the registrar an enormous power.

Mr. PALMER said the clause seemed very reasonable indeed. The electoral registrar would not lay himself open to the pains and penalties in the clause which had been previously quoted; and it was quite certain he would not leave names on unless he was very well satisfied they were the names of *bonâ fide* qualified voters.

Clause passed as printed.

On the motion of the PREMIER, the following new clauses were inserted :—

In compiling the annual list in the month of August, one thousand eight hundred and eighty-six, every electoral registrar shall observe the directions in the last preceding section contained, and shall write against the name of every person whose name is inserted in such list the letter C, K, or D, according as the name was inserted upon the receipt of a claim from the elector, or upon the personal knowledge of the electoral registrar, or upon the solemn declaration of another person, respectively.

At every annual registration court held in the year one thousand eight hundred and eighty-six, the court may call for any claim or declaration received by the electoral registrar under the provisions of this part of this Act, and may examine the electoral registrar as to his knowledge of the qualification of any elector against whose name the letter K is set in the list.

The chairman shall expunge from the list the name of any person who, upon inspection of a claim or declaration, or upon examination of the registrar, does not appear to the court to be entitled to vote.

Except as herein otherwise provided, the court shall be guided by the provisions of Part III. of this Act.

Except as by this part of this Act is otherwise provided, every electoral registrar shall, in compiling the annual lists for the year one thousand eight hundred and eighty-six, be guided by the provisions of Part III. of this Act.

On the motion of the PREMIER, the schedule was amended by the introduction of a third column, and passed in the following form :—

Number of Act.	Short Title.	Extent of Repeal.
33 Vic. No. 6	The Elections Act of 1874	The whole not already repealed, except sections 69, 70, and 71.
43 Vic. No. 5	The Electoral Rolls Act of 1879	The whole.
47 Vic. No. 6	The Elections Act of 1874 Amendment Act of 1884	The whole.

Preamble passed as printed.

On the motion of the PREMIER, the CHAIRMAN left the chair, and reported the Bill to the House with amendments.

The PREMIER said: Mr. Speaker,—As hon. members are aware, there are some alterations to be made which will necessitate a recommittal of the Bill. The amendments are almost entirely verbal, except one in the 37th clause, of which notice was given three weeks ago. I therefore move that you leave the chair for the recommittal of clauses 1, 4, 5, 37, 65, 74, and 83.

Question put and passed; and the House went into Committee.

On the motion of the PREMIER, clauses 1 and 4 were verbally amended.

On clause 5—

The PREMIER moved that the following addition be made to the clause :—

> "Elections Tribunal"—The Committee of Elections and Qualifications constituted under the provisions of the Legislative Assembly Act of 1867, or such other tribunal as may hereafter be created for the trial of election petitions.

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

The PREMIER moved that the following addition be made to clause 37 :—

> The numbering of the names in regular arithmetical order as hereinbefore prescribed shall be continued throughout the quarterly electoral rolls, so that the number set against the first name appearing upon any quarterly roll shall be the number immediately succeeding that which is set against the last name appearing on the annual roll or last preceding quarterly roll, as the case may be.

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

On the motion of the PREMIER, clause 65 was amended by the substitution of "hereinafter" for "hereinbefore," and agreed to.

The PREMIER, in moving that the following words be added to clause 74 :—

> Every such ballot-paper shall be dealt with as hereinafter provided, and may be allowed and counted by order of the Elections Tribunal on a scrutiny, but not otherwise—

said that the amendment had been suggested by the hon. member for Bowen, and its object was to state more distinctly than the clause at present expressed what should be done with ballot-papers that were set aside for scrutiny.

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

Clause 83 was, on motion of the PREMIER, amended by the substitution of "Elections Tribunal" for "Committee of Elections and Qualifications of the Legislative Assembly," and agreed to.

The PREMIER moved that the Chairman leave the chair and report the Bill to the House with further amendments.

Mr. PALMER asked whether the Act mentioned in the last line of the schedule—the Elections Act of 1874 Amendment Act of 1884—was entirely repealed by the Bill?

The PREMIER said it was entirely repealed, but it was all re-enacted in the Bill.

Question put and passed.

The House resumed, and the CHAIRMAN reported the Bill with further amendments.

The report was adopted, and the third reading of the Bill made an Order of the Day for to-morrow.

ADJOURNMENT.

The PREMIER said: Mr. Speaker,—I move that the House do now adjourn. It is proposed to-morrow, after the third reading of the Elections Bill, to go on with the second reading of the Victoria Bridge Closure Bill, and after that to proceed with Supply.

Question put and passed.

The House adjourned at eight minutes to 10 o'clock.