Queensland

Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 8 OCTOBER 1885

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LEGISLATIVE COUNCIL.

Thursday, 8 *October*, 1885.

Additional Sitting Day.—Victoria Bridge Closure Bill — third reading. — Elections Bill — committee. — Probate Act of 1867 Amendment Bill — second reading.—Justices Bill—second reading.

The PRESIDENT took the chair at 4 o'clock.

ADDITIONAL SITTING DAY.

The POSTMASTER-GENERAL moved—

That, unless otherwise ordered, this House will meet for the despatch of business at 3·30 p.m. on Tuesday in each week, in addition to the days already provided for meeting by Sessional Order.

The HON. T. L. MURRAY-PRIOR said: I should like to ask the Postmaster-General if there is any occasion for this additional sitting day—if the business is so great that we cannot get through it in two days in a week—or if the session is likely to come to an end soon?

The POSTMASTER-GENERAL said: There is a great deal of work ahead of us, and this extra day is suggested for the purpose of keeping pace with the work, so that we will not have the other Chamber awaiting the passage of measures through this House. There are two measures which I hope to get through this Chamber so as to enable them to be passed into law this session; one is the Justices Bill, and the other the Settled Land Bill, both of which are of high importance to the welfare of the colony. The clauses in these Bills are numerous and important, and I have come to the conclusion that unless we have this extra sitting day we will not be able to get through the work which is now before the House.

The HON. J. TAYLOR said: I myself cannot see any occasion for an extra sitting day. On an average, how long have we sat here? I suppose an hour a day, and if we sat till 8 or 9 o'clock in the evening, we should get through all the work we have to do. This is only dragging people down from the country for nothing, and I trust the motion will not be carried.

The HON. G. KING said: I have no objection to sit any length of time, provided there is business to do, but this motion seems to be perfectly absurd. I travel 212 miles per week, to attend in my place in this House, losing four days for about four hours' work. I would be most happy to sit later on the evenings to get through the work, but it seems rather hard to keep us here for three days in a week when we do not fully utilise our time.

Question put, and the House divided:—

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The Postmaster-General, the Hons. D. F. Roberts, W. H. Wilson, W. Pettigrew, F. H. Holberton, J. Swan, A. C. Gregory, G. King, W. Forrest, E. B. Forrest, F. T. Gregory, and T. L. Murray-Prior,

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The Hons. A. J. Thynne, P. Macpherson, F. H. Hart, W. G. Power, and J. Taylor.

Question resolved in the affirmative.

VICTORIA BRIDGE CLOSURE BILL—THIRD READING.

On the motion of the POSTMASTER-GENERAL, this Bill was read a third time passed, and ordered to be returned to the Legislative Assembly, by message in the usual form.

ELECTIONS BILL—COMMITTEE.

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

Schedule passed as printed.

On clause 81, as follows:—

"As soon as possible after the returning officer has received from the several presiding officers the sealed parcels so transmitted to him, containing the ballot-papers taken at the polling places at which such presiding officers respectively presided, and the several statements of the numbers of votes so transmitted by them, he shall from his own and such other statements ascertain the gross number of votes for each candidate, and shall also, in the presence of his poll-clerk (if any) and of such candidates and scrutineers as may attend, open such sealed parcels, and examine and count the number of votes for each candidate at each polling place; and after having counted the same shall make up in separate parcels the ballot-papers, rolls, books, and papers received from each presiding officer in like manner as hereinbefore required concerning the ballot-papers, rolls, books, and papers kept and used by him at his own polling place, and shall seal up, and also permit to be sealed up by the scrutineers, and shall endorse in like manner as aforesaid the said several parcels, and deal with the same as hereinafter provided.

"The returning officer shall also make out in respect of each polling place a like written statement, signed and countersigned as hereinbefore required, concerning his own polling place.

"No returning officer shall open or examine any sealed packet in the joint absence of any candidate and his scrutineer unless he has given twenty-four hours' previous notice in writing to such candidate, or to his scrutineer, of his intention to open and examine the same."

The HON. A. C. GREGORY said when the Bill was before the Committee on a previous occasion he suggested an amendment in the clause, but it had since been pointed out to him that it would be desirable to make some modification in the words he proposed to insert. He would move that in line 5, page 23, a new paragraph be inserted, which would read as follows:—

The returning officer shall also examine the rolls which have been used and marked by himself and the presiding officer at the several polling places, and ascertain whether any electors appear to have voted at more than one polling place, and shall make out a list showing the names and numbers of all electors who appear to have so voted at more than one polling place, and shall forward a copy thereof to each of the candidates and shall enclose the original list in the sealed packet to be made up by him as herein provided.

The amendment did not affect any other part of the Bill, as it was a matter that stood by itself, and it was therefore not necessary to do more than state that he thought that was the proper place to introduce it. Without some provision of the kind his opinion was that there would be no proper or convenient way for candidates to arrive at the knowledge that double voting had taken place. He thought that the provision he proposed to insert, besides giving candidates such a knowledge, would act as a deterrent to those who otherwise might practice such an objectionable procedure as double voting, because they would know that immediately on the conclusion of the polling the double votes would be made known and the double voters would be proceeded against. Hitherto no proper measures had been taken by returning officers to ascertain whether there had been double voting, or if they had taken any measures they had been simply left as an undeveloped fact of which no one had any means of ascertaining whether the evil did or did not exist. He therefore moved the amendment which he had read.

The POSTMASTER-GENERAL said he believed the amendment in its present form would be of some advantage, and he had much pleasure in assenting to the suggestion of the Hon. Mr. Gregory as embodied in it.

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

Preamble passed as printed.

The House resumed; the CHAIRMAN reported the Bill with amendments.

The POSTMASTER-GENERAL said, in order to reconsider clause 101, which required a slight amendment, he would move that the Bill be recommitted.

Question put and passed, and the House went into Committee to reconsider clause 101.

The POSTMASTER-GENERAL said that through some error the meaning of subsection (*c*) had been altered from what was intended, and he proposed to amend the clause so that the first part would read as follows:—

It shall not be lawful to use—

(*a*) Any premises on which the sale by 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; or

(*c*) The premises of any State school or school in receipt of aid from the Consolidated Revenue Fund;

or any part of any such premises; as a committee room for the purpose of promoting or procuring the election of a candidate at an election.

With that view he moved the insertion of the word "or" at the end of subsection (*b*).

Amendment put and passed.

The POSTMASTER-GENERAL moved the omission of the words "or any part of any such premises" with a view of inserting them at the beginning of line 20.

The HON. SIR A. H. PALMER said that if the words were struck out they could not be reinserted. It was only a question of notation, with which it was quite competent for the Chairman to deal.

The POSTMASTER-GENERAL said that in consequence of what had fallen from the Hon. Sir A. H. Palmer he would withdraw his amendment.

Amendment, by leave, withdrawn.

The House resumed, and the CHAIRMAN reported the Bill with an amendment. The report was adopted, and the third reading of the Bill made an Order of the Day for Tuesday next.

PROBATE ACT OF 1867 AMENDMENT BILL—SECOND READING.

The POSTMASTER-GENERAL said: Hon. gentlemen,—I do not think we need occupy much time in dealing with this measure, which is intended to correct an error that has subsisted for a considerable time, strange to say, but which should be rectified forthwith. In the Stamp Duties Act of 1866 there is a section, No. 31, which repeals the 3rd section of the Act 15 Vic. No. 17, and the schedule annexed thereto; but by some mischance, when the Probate Act of 1867 was passed, section 41 was inadvertently re-enacted. This Bill is simply for the purpose of correcting that error, and to provide that fees which have been required to be paid shall be returned to the parties that have paid them, and that the law shall be as it was intended to be by the passing of the Stamp Duties Act in question. I move that the Bill be now read a second time.

Question put and passed, and the committal of the Bill made an Order of the Day for Tuesday next.

JUSTICES BILL—SECOND READING.

The POSTMASTER-GENERAL said: Hon. gentlemen,—In moving the second reading of this Bill, which is entitled "A Bill to consolidate and amend the laws relating to Justices of the Peace, and their powers and authorities," I shall endeavour as shortly as possible to point out what is new in the measure, because I understand there are several hon. gentlemen who desire to speak on the question. Therefore I shall run rapidly through the several clauses, possibly omitting a good deal of what may be of interest to the practitioner and justices of the peace in reference to their respective duties; but still calling attention to the prominent alterations included in the Bill. First, it is my duty to state that the measure was first undertaken by Sir James Cockle, before he left the colony, and that his work has practically become the basis of this measure. What Sir James Cockle did, however, related only to consolidation without amendment. This Bill is, to a great extent, a consolidation of the Acts named in the first schedule, which you will find on pages 44 and 45. A reference to that schedule will show at once the good practical result that will follow if this measure becomes law, because we find in the 252 clauses of this Bill what is there represented, together with a large amount of new matter. For greater convenience of reference, the Bill is divided into parts; and a good number of cross-headings are introduced to facilitate reference and to carry through the spirit of order from beginning to

end. The language of the sections taken from the repealed Acts has been, in most instances, very carefully considered, revised, and modernised, and by the adoption of a comprehensive interpretation clause the sections are very much shortened indeed. Besides these features of the Bill, considerable care has been bestowed on the proper arrangement of the sections and the forms and orders, in order that the practitioner, the general public, and the justices may be presented, as nearly as possible, with a clear example of what will be the practical steps of an action before these courts. Referring to section 3, which provides that the Act shall commence and take effect on and after the 1st day of January, 1866, I may say that the object is to give time to prepare, print, and distribute the necessary forms to the different police officers in the colony. Passing to section 4, it will be observed that the offences which come within the jurisdiction of justices are very clearly classed under three heads. You will notice that "indictable offence" means such as may be prosecuted before the Supreme Court, or other court having jurisdiction in that behalf by information in the name of the Attorney-General or other authorised officer. "Simple offence" means any offence, indictable or not, punishable on summary conviction before justices, by fine, imprisonment, or otherwise. "Breach of duty" means any act or omission, not being a simple offence, or a non-payment of a mere duty upon complaint, whereof justices may make an order on any person, for the payment of money, or otherwise. I would ask the attention of hon. gentlemen to the definition of "complaint," because it is an important one. The term "complaint" includes the terms "information," "information and complaint," and "charge," when used in any Act, and, unless the contrary appears, means an information and complaint before justices. Turning to section 7, we find that the first part of the section is new, and it provides that "the words police magistrate, or the letters 'P.M.' after the signature to any magisterial act shall be *primâ facie* evidence that the person whose signature it purports to be is a justice of the peace and a police magistrate." Section 8 refers to forms, which, I may say, are very simple and clear. Considerable and special attention has been paid to them and the language used in framing them, and they are more comprehensive than the forms contained in the Acts now in force. The forms rendered necessary owing to the insertion of the new matter to which I have referred are to be found in the 3rd schedule, and may be summed up briefly. Search warrants are dealt with in forms 2 and 9; surety of the peace and good behaviour forms are Nos. 1, 11, 25, 26, 56, and 68; recognisance on appeal, 29; minute of conviction or order, 32; certificate of dismissal in Part VII., form 40. Section 10 preserves the power justices have under other Acts, where those Acts are not inconsistent with this Bill. Sections 11, 12, and 13 are taken from the Victorian Statutes, and are, I think, very useful provisions. Section 13 will also be found in our Local Government Act, as well as in the law that governs the working of divisional boards. Sections 17, 19, and 20 are taken from the Victorian Statutes; whilst section 18 is a new one. Referring to section 21, it is to be noted that it is adopted from an Act of George III., marked in the margin, and will be found a very useful provision indeed. With regard to Part III., it will be found that the powers of one justice and those of two or more justices are defined. Section 29 provides that the majority of justices may decide any matter. This is a new clause which I think will prove a useful enactment. The next new matter will be found at clause 34, relating to the extent of jurisdiction. It is not necessary that a justice of the peace shall be actually within the limits of his jurisdiction in order to give validity to an act done by him within that jurisdiction. Further on, in section 38, we find something new—"Summons or warrants not avoided by death of justices." Section 40, as hon. gentlemen will see when carefully reading the Bill before it goes into committee —as I hope they all will—gives power to the justices to order the delivery of goods charged to have been stolen or fraudulently obtained and in the custody of a police officer. Section 41—"Open court"—contains a proviso which will enable justices to remove from court anyone except the parties to the case and their lawyers, where the interests of morality require that it should be done. Passing to section 44, under the head of "Evidence," you will find some fresh matter in the last part of the clause, which reads "or in such other manner as is prescribed or allowed by the Acts in force for the time being, relating to the examination of witnesses otherwise than upon oath." Sections 49, 53, and 57 are quite new. Section 51 is taken from a recent English Act, and from the same Act is taken section 65, which provides that in cases of arrest without warrants the defendant shall be brought before the justices as soon as possible, and if this cannot be done within twenty-four hours the inspector of police shall admit him to bail unless the charge is of a serious nature. Section 70 relates to search warrants, and you will find that it has been here contemplated to put in writing what is regarded to be the law on the subject at the present time, and the proper forms have been inserted in the schedule. Section 90 is new, and also section 92, which refers to recognisances. This section, I may remark, is understood to be the law at the present time, and, as hon. gentlemen are aware, is acted up to in some cases; but the provision will place the law on the subject beyond doubt in the future. Turning to section 106, it provides for the receipt of evidence on behalf of a defendant charged with an indictable offence as defined in another part of the Bill; and then, in section 108, felony is mentioned as one of the offences in which a defendant may be admitted to bail; that is new. Clause 122, under the cross-heading "Recommittal," is new, and a provision is inserted providing for a case where a defendant has been committed to take his trial before a court which has no jurisdiction. Section 126 is likewise new. It refers to the remanding of accused persons to another place, and it will be found a very useful provision where a defendant has been examined for an offence committed at a remote place. Section 130 is new. Section 142 is taken from the Police Land Act, and the last paragraph of section 144 is new. Turning to section 153, "Payment by instalments of, or security taken for payment of money," I may mention that this section is taken from an English Act which I have before referred to, and it refers to the fact that a justice may allow time for the payment of any sum, or direct that the sum may be paid by instalments. It also directs that the person liable to pay the sum shall give security to the justices for such payment. Section 163 is taken from the same English Act; and hon. gentlemen will notice that all through the Bill the word "execution" takes the place of "distress and sale." Hon. gentlemen will please notice that clauses from 163 to 165 inclusive are entirely new; and I draw their attention to the scale of imprisonment for the non-payment of money. Section 168 is taken from the English Act and relates to the remission of penalties—the power of the Govern-

ment in respect to remitting the whole or any part of a fine, penalty, or forfeiture. In sections 170 and 171, it will be noticed that it is proposed to considerably alter the law. Considerable alterations are made in these clauses, which deal with summary punishment of certain indictable offences, and the alteration is made with a view to include the whole of the offences made punishable by the existing law. There are several inconsistencies in the present laws on this subject; and in the language used in these clauses care has been taken to harmonise those inconsistencies, and to define clearly that which it is considered should be the law at the present time. Clauses 174, 177, 178, and 179 are all new; the jurisdiction of the police over certain offences being more clearly defined. Then we come to section 184, dealing with offences by children. That is taken from the English Act, with some alterations that are suitable to this colony, and it will be found a great improvement upon the existing state of affairs. I will now pass to section 194. In that provision will be found a most important alteration, and it will be seen that the defendant when called upon to show cause why he should not enter into a recognisance to find sureties to keep the peace, or be of good behaviour, may thereupon produce evidence to show that the complaint is made from malice or from vexation only, or in contradiction of the facts stated in the complaint. Part IX. deals with appeals from decisions of justices of the peace. Sections 213 to 224 are adopted from the English Acts, 20 and 21 Victoria and 42 and 43 Victoria. They provide for an appeal to the Supreme Court, and for special cases being stated; but power is left to the justices to refuse to state a case where an application appears to be frivolous. Sections 225 and 238, having reference to the appeals to the district court, appear very complete and are a great improvement upon the procedure in that respect which has to be gone through at present. 226 is a new section; so likewise are 229, 231, 232, and 248. I will not trouble the House by referring to the forms at the end of the Bill, although I had some observations to make about some of them, but I will sum up in a sentence or two what I think hon. gentlemen generally will acknowledge with regard to this Bill. I think it represents a work of considerable care and skill, that it reflects immense credit upon those who have worked it up in its details, and the whole measure appears to me, notwithstanding that we have a few amendments to make — and there must be amendments in a Bill of such magnitude— a most complete and intelligent consolidation and amendment of the existing law. I have no doubt that if it passes through this House and the other branch of the Legislature this year it will be a measure that will result in great benefit indeed in the working of the domestic laws of the colony. I cannot speak too highly of the evidence of order and the immense labour which appears to be represented in this measure, but I may say simply that it represents a harmonious whole and a digest of law in relation to justice that will be a credit to the colony when placed on the Statute-book. I have very great pleasure indeed in moving that the Bill be now read a second time.

The HON. P. MACPHERSON said: Hon. gentlemen,—I cannot allow the second reading of this Bill to pass without saying a few words on the subject. In the first place, I congratulate the Government upon the introduction of the Bill. The construction of the Bill itself is logical, and its language concise and clear, and I believe that it will be a great boon to justices of the peace, of great assistance to the legal profession, and an immense benefit to the general public. As most of us are aware, the principal statutes relating to justices in force in this colony are those known as Jervis' Acts, 11 and 12 Vic. chap. 42, 11 and 12 Vic. chap. 43, and 11 and 12 Vic. chap. 44. Those Acts were adopted in the parent colony of New South Wales in the year 1850, by the Act 14 Vic. No. 43, which Act was subsequently amended, and has ever since remained, with a large number of subsidiary statutes, the Act affecting the jurisdiction of justices in this colony. The first of the statutes that I have named relates to the duties of justices as regards indictable offences. The second relates to their duties with regard to summary convictions, and the third confers upon them certain privileges in the discharge of their duties. The sections in the first two of those Acts are very lengthy, and those sections, in consequence of the Acts having been passed separately, have been to a certain extent repeated. So lengthy are some of the sections that I may say that one or two of them absolutely contain nearly 1,000 words. It has been long felt, having in view the cumbrousness of those Acts and the large number of other Acts affecting the jurisdiction of justices, that a codification of the whole law was a matter of necessity, and therefore, although somewhat late in the day, I, for one, as a member of the legal profession, hail with satisfaction the appearance of this Bill before Parliament, and I do sincerely trust that it will be passed during the session. I may state that, with the assistance of the notes appended to the sections, I myself have verified the correctness of upwards of 200 of the clauses in the Bill, and I have found that wherever an alteration has been made by the draftsman that alteration has tended towards improvement. The sections which have hitherto been so cumbrous have also been split up and logically arranged. Having said so much about the consolidation, I will not weary the House by reference to the details, which have been so elaborately dealt with by the Postmaster-General; but I may say that, as regards the interpretation clause, I fully agree with the definition showing what infractions of the law are punishable summarily. I may simply quote two paragraphs of the interpretation clause, to this effect, to show what I mean :—

"'Simple offence' means any offence (indictable or not) punishable, on summary conviction before justices, by fine, imprisonment, or otherwise;

"'Breach of duty' means any act or omission (not being a simple offence or a non-payment of a mere debt) upon complaint whereof justices may make an order on any person for the payment of money or otherwise."

I fully agree with the amendment in clause 70, with reference to search warrants, and, as is known, no form of search warrant was supplied with the Justices Act, and, besides, the provision in that respect contained in this present Bill is more extensive than that which is given in the Larceny Act. Clause 92, having reference to arrest of principal at the instance of sureties, I entirely agree with, as also clause 122, having reference to the recommittal of persons for certain offences. With reference to clause 123, as to the right to copies of depositions, I notice that nothing is said about the charge which is to be made. As the law stands at present, I believe the charge is 1½d. for a folio of ninety words, but I should wish myself to see a prisoner who is placed upon his trial at the instance of the lower ministerial courts of the colony in a position to get those depositions without having to pay for them. I think that that would be only just, and I hope the Postmaster-General will make a note of the matter with a view to the amendment of the law. The amendment in clause 164, having reference to the mitigation of punishment by justices, seems to me

to be a great improvement upon the present law, and, if I mistake not, it is adopted from the English Summary Jurisdiction Act of 1879. I also agree with the amendment in clause 165 as to the scale of imprisonment for non-payment of money —that is also adopted from the Imperial statute. Clause 175—"Option given to be tried by jury" — is an excellent provision; and section 184, which refers to offences committed by children, cannot fail to give satisfaction, and will be of great benefit to the community. Now, coming to Part VIII., clause 189, I certainly congratulate the Government upon this part of the Bill. This part is entirely original, and, if I mistake not, is the work of the Premier. It sets forth what the law is supposed to be, and for the first time declares by statute in this colony the law with reference to sureties of the peace and good behaviour. Hon. gentlemen in this House cannot fail to know how much the jurisdiction of justices in matters of that kind has been abused. I think it was in New South Wales, in 1876, that an Act was passed embodying some of the provisions which are laid down in this part of the Bill, but I think, as regards progressiveness and justice in this direction, we have got the better measure of the two. This Bill provides for a fair and full inquiry in a man's presence with reference to his being bound over to keep the peace, instead of the old procedure under which a man was dragged before a magistrate and committed without having a word to say for himself. I have known many instances of hardship occurring through that procedure, but I do not think it necessary to further dwell upon the subject just now. The next part of the Bill, Part IX., which is an amendment as well as a consolidation, I fully concur in. It abolishes what were called prohibitions, and establishes for them appeals. The result is the same, but the word "appeal" is certainly a far better word than "prohibition" in every respect. "Prohidition" has always appeared, to my mind, a most useless and meaningless term. I shall not detain the House further upon this Bill, except by repeating that I am indeed happy to acknowledge the ability which has been displayed in the draft which has been submitted to us; and I have to assure the Postmaster-General and the Government that they will have the hearty co-operation of every member on this side of the House in making the measure as perfect a one as possible.

The HON. T. L. MURRAY-PRIOR said: I need say very little upon this Bill after what has fallen from other hon. gentlemen; but I merely wish to draw the attention of the Postmaster-General to one portion of it relating to magistrates taking the oath of office. We know of many persons who are well adapted to fill the position of magistrate, who, either from religious or conscientious motives, cannot take an oath of allegiance. I do not know whether this is the proper place in which an alteration of that sort can be made, and I therefore wish to draw the attention of the Postmaster-General to the matter and ask him to take into his consideration whether an affirmation could not be substituted for the oath of allegiance. I see by the Statute of 1867 that although an affirmation in some cases may be taken, yet by the 7th section of that Act it is provided that that shall not extend or apply to the oath of allegiance in any case. Therefore, I take it that no person about to become a justice of the peace can make an affirmation, and I think it would be a very great improvement if such a provision could be included in the measure. Perhaps the Postmaster-General will be good enough to take that into consideration.

The HON. G. KING said: Of course the opinions of a non-professional man upon a Bill like this cannot carry much weight, but I must say that I have perused the measure with a great deal of pleasure and satisfaction. I was particularly struck with the lucidity of the style and the total absence of anything like professional technicalities which renders the reading of Bills of this sort almost beyond the scope of the lay mind. I am quite sure that the consolidation of the various Acts dealing with the jurisdiction of justices, and with such amendments as may be made, will result in great good to the country.

The HON. F. T. GREGORY said: I have very little to add to what has fallen from previous speakers, more especially as two hon. gentlemen who have spoken have had the advantage of a legal training, and have very much greater knowledge on the subject than myself. Notwithstanding, I think, as a magistrate of something like thirty years' standing, I am entitled to offer an opinion upon the measure. I have carefully read this Bill, and so far as it comes within the scope of my experience I must say that the measure appears to me to be an exceedingly clear and intelligent one. It seems to be very well digested, and, what is of very much greater importance to us as magistrates, it will form a safe ground upon which the bench of the colony will be able to work without trouble. I think it will replace a great many of those works which justices have been compelled to have frequent recourse to in obtaining guides to cases that are not of daily occurrence; more particularly in the country, where we have not always by us the necessary legal handbooks; and it is very difficult for justices of the peace to commit to memory the various enactments under which they work, and which have been shown by the schedule of the Bill to amount to not less than thirteen statutes. The very fact that it would be necessary for those on the bench to go through twenty different statutes to find the information contained in the Bill shows the great benefit it will be to the country. I have no doubt that such care has been taken in the compilation of the measure that no important errors have crept in, and that the new matter contains nothing subversive of any existing statute laws; at the same time it will behove hon. gentlemen when in committee to carefully watch the Bill, clause by clause, in order to discover what they may believe to be omissions, errors, or defects, so that after fair discussion they may find out either that their objections are not valid, or that the clauses in which they believe they have discovered defects are capable of amendment. I shall heartily support the passage of the Bill.

The HON. W. H. WILSON: Hon. gentlemen,—I regard this Bill as an important contribution to the work of legislative codification. It presents in a comprehensive and simple way the general practice of the law as administered by justices of the peace, which is at present so scattered about our Statute-book as to give magistrates considerable trouble when investigating points of law connected with their jurisdiction. The work here done will be of considerable service to those interested in the proceedings of magistrates' courts, and their labours will be considerably lightened by the systematic manner in which the Bill has been constructed. As has been already stated, it reflects the highest credit on the draftsman, and I certainly trust we shall see more of this class of legislation introduced into this House. When it is remembered that justices of the peace perform their onerous and responsible duties in all parts of the colony—often without any previous legal training, simply using their intelligence and common sense as their only guide in carrying out the duties of their office, and interpreting the

Acts they are are called upon to administer—it will be seen that the Legislature should make their labours as light as possible. This has been very well done in the Bill before us. The information conveyed is that which it is desirable all magistrates and practitioners in magistrates' courts should possess in the simplest form; and the saving of valuable time through various statutes being consolidated into one Act will, of course, be immense. The law will be more easily understood, and its practice rendered less formidable in its administration. It is well known that justices of the peace have powers of preliminary investigation in a vast number of subjects, and in a great many instances exclusive jurisdiction. They have power to fine and imprison, and to a great extent deal with the liberty of the subject; and it is important that the practice, form, and mode of procedure should be accurately defined, so that justices may at once see what their powers and functions are. One great reform in the Bill is the omission of a mass of repetitions. Sometimes the same clause is found in three or four different Acts. The series of Acts from which the Bill is compiled date from 1826 up to the present time. Some are English Acts, others New South Wales Acts, and others are Acts passed in Queensland. Many of them contain pages of irrelevant details, long titles, and preambles; but these are not included in the Bill now before us, which assumes a comprehensive and compendious shape. There are one or two matters I should like to mention now in order that they may be considered when the Bill comes under our consideration in committee. Clause 16 provides that every judge of the Supreme Court, without any further commission, is a justice of the peace of Queensland, and I think that should be sufficient without adding the words "in like manner as judges of Her Majesty's Court of Queen's Bench at Westminster were, by virtue of their commission in that behalf, justices of the peace of and for England." In reference to clause 41, I throw out the suggestion that it might be better, instead of giving magistrates power to close their court, when they consider it desirable to do so in the interests of public morality, that they should have power to exclude women and children only, because this is giving them a power that the Supreme Court itself does not possess. Clause 158—"Satisfaction of execution by payment"—hon. gentlemen will see is identical with subsection 8 of clause 163, and that may possibly be remedied in committee. With regard to offences by children, I notice that the age of twelve years is named, and it is a question whether it would not be better to increase that age to fourteen years, seeing that juveniles up to the ages of fifteen or sixteen can be sent to the reformatory, and it might be advisable to alter the age to fourteen, in order that justices may be able to deal with them. It is also a question whether the magistrates ought not to have some power to deal with cases of contempt. At present they have no power except, perhaps, that of binding persons over for good behaviour. There is another omission I would like to call attention to—that of interpleader. As the law now stands, in case goods are seized under a distress—it is called execution in the Bill—and a claim is made to them by a third person, the police charged with the warrant of execution must withdraw from possession, no matter how false that claim may be. Power should be given to the justices to decide upon the truth or falsity of such claim by interpleader. These are matters which struck me in going through the Biil, and I think it is well to mention them now, in order that they may be considered before we go into committee. I have read the Bill very carefully, and I find it is exceedingly well drawn It appears, on the whole, to be a very excellent measure, and one which is very much wanted, and if passed into law it will be an important addition to our Statutes. I have great pleasure in supporting the second reading.

The HON. A. J. THYNNE said: Hon. gentlemen,—There has been so much said already on the skill shown in drafting the measure that I do not propose to add anything in that direction; and what I have to say I will say as shortly as possible. Under the Bill it is proposed to introduce a new species of magistrate. Section 13 provides that the chairman of every municipal district shall be a magistrate by virtue of his office.

An HONOURABLE MEMBER: That is the law now.

The HON. A. J. THYNNE: If it be the law now it will be better to make some alteration. It will be found that the process of issuing warrants by magistrates in one municipal district, and getting them executed in other parts of the colony, will endanger process very frequently, and it will become necessary to go through a very cumbrous course of procedure if we depart from the present practice of appointing magistrates having functions throughout the colony. In section 29 there is a matter which requires some consideration. In criminal prosecutions for indictable offences, it has been considered in many cases that the minority of justices on the bench have the power, notwithstanding the opinion of the majority being against them, to commit an accused person for trial if they are of opinion that there is *primâ facie* evidence sufficient to justify a committal. I believe there are one or two instances on record where that has taken place, and it is a serious matter whether we should alter that or not; because if cases of importance or of great interest should happen to come before a bench of magistrates a man having friends may have enough magistrates on the bench in his favour, intentionally or otherwise, to form a majority to give him the benefit of a doubt to which he is not entitled, and thus save him from the risk of being committed for trial. Under this clause the majority bind the minority; and if they consider there is not a sufficient case to commit an accused person for trial he has to be discharged. I think in many cases the preservation of the power of even two magistrates to commit a person, if they think the case ought to go to another tribunal, would be of advantage. In section 50 I think some amendments will be required, but I will say nothing further on that clause at present. In section 122, where there is a power of recommittal in cases of error, the Postmaster-General will find that it will be judicious to make some alteration providing for what has recently occurred in Brisbane. A man was committed for trial, under the Larceny Act, to the district court, and the property stolen was the property of a club of which the judge happened to be a member, and he was incapacitated from trying the case on account of interest. It so happened that two of the judges of the Supreme Court were also incapacitated for the same reason, and when the district court judge found himself incapacitated from trying the case his only course was to discharge the accused, and the whole process of arrest, investigation before the magistrates, and recommittal to the Supreme Court had to be gone through again. I think it would be advantageous to give the court power to commit the accused in such a case to a court which would have jurisdiction. I am sure the Postmaster-General will see the importance of making an amendment in the clause, because it will save a considerable amount of trouble. In section 126 there is an important alteration which will save a

great deal of expense in future. In preliminary investigations it has been necessary that the magistrate who committed an accused person should hear the whole of the evidence; but this provides for a magistrate taking evidence in one part of the colony and forwarding the depositions together with the accused to another part where the bulk of the witnesses reside. Of course that will not save the necessity for the attendance of witnesses at the trial itself. It has been suggested to me that this principle may be extended. There are a good many cases of obtaining money under false pretences by means of valueless cheques, and it has been suggested to me that provision could be made in the case of preliminary investigations for the admission as evidence of certified copies of accounts by officers of the bank. Suppose a man were arrested at Roma for obtaining money by false pretences by means of a cheque drawn on a Brisbane bank, it would be necessary that an officer of the bank in Brisbane should travel to Roma to give his evidence, while, for all practical purposes, a certificate showing the state of the account or absence of account would be sufficient for the preliminary investigation. I agree with the improvement in section 194, giving a person accused, who has been bound over to find sureties to keep the peace or to be of good behaviour, an opportunity of giving evidence as to the facts on which the complaint is based. Magistrates have held, up to the present time, that the only evidence they can receive is on the question whether the complaint is made from malice or vexation, and that they are not at liberty to accept a denial of the statements made by the accusing party, no matter how untrue they may be. I am pleased to see that in this instance the Bill proposes to make the defendant and his wife competent witnesses in cases in which they are concerned. That is a principle I hope to see in time extended to all similar proceedings before magistrates. I am glad to see that by clause 231 the appeal to the district court is to be by way of re-hearing. Up to the present time the custom has been to send depositions to the judges of the district court. If they found any statement which if accepted as true would justify the order made by the magistrates, the custom has been not to interfere; but now, cases of appeal being sent to the district court for re-hearing, much more substantial justice is likely to ensue. Whilst there is no doubt that this Bill will be passed into law, and put the laws relating to justices in a more regular order, yet I am sure that magistrates for some time will miss the opportunity they have had of referring to their old landmarks—"Plunkett," and "Wilkinson's Magistrates' Guide"; but I hope it will not be long before we have another publication more suitable to the requirements of the colony—supplying the required information in as clear a form as it is in the Bill.

Question put and passed, and committal of the Bill made an Order of the Day for Tuesday next.

The House adjourned at five minutes to 6 o'clock.