Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

WEDNESDAY, 11 AUGUST 1886

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LEGISLATIVE ASSEMBLY.

Wednesday, 11 *August*, 1886.

Divisional Boards Bill—Message *re* Money Bills.—Deputy Administrator of the Government.—Question.—Petition.—American Seed Corn.—Motion for Adjournment—American Seed Corn.—Formal Motions.—Local Authorities (Joint Action) Bill—recommittal.—Elections Tribunal Bill—committee.—Revenue and Expenditure in North and South.—Adjournment.

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

DIVISIONAL BOARDS BILL.

MESSAGE *re* MONEY BILLS.

The PREMIER (Hon. Sir S. W. Griffith) said: Mr. Speaker,—I have to ask permission of the House to move a motion without notice. On Tuesday last the Divisional Boards Bill was introduced in committee, and I inadvertently omitted to communicate, as I was directed, a message from His Excellency the Administrator of the Government recommending the necessary appropriation. That was a necessary preliminary to the introduction of the Bill. As I am desirous that the second reading should take place on Tuesday, the day fixed for it, I ask permission to move now, without notice, to go into committee to-morrow for the purpose of re-introducing the Bill. If there is no objection I propose to move—I presume there will be none—that this House will to-morrow resolve itself into a Committee of the Whole to consider the desirability of introducing a Bill to consolidate and amend the law relating to local government outside the boundaries of municipalities.

The SPEAKER: Does the House consent to the motion being put without notice?

HONOURABLE MEMBERS: Hear, hear!

The SPEAKER: I may state that it was my intention, even if the hon. gentleman at the head of the Government had not proposed the motion, to call the attention of the House to the matter to which he has just referred. I have given the subject very great consideration since last evening, and it is with a view of preventing any irregularity in the proceedings of the House that I call attention to the proceedings in committee last night. I may point out that the Canadian practice, which was the one adopted last session and which has also been followed this, is as follows:—

"The recommendation of the Crown to any resolution involving a payment out of the Dominion Treasury must be formally given by a Privy Councillor in his place at the very initiation of a proceeding, in accordance with the express terms of the 54th section of the British North America Act of 1867, and in conformity with the invariable practice of the English House of Commons."

I may inform the House that the 54th section of the British North America Act of 1867 is precisely similar in language to the 18th clause of our Constitution Act:—

"The statement is to be made as soon as the motion has been proposed for the House to go into committee on the resolution. The following is the entry made in the journals on such an occasion:—'Sir John A. Macdonald, a member of the Queen's Privy Council, then acquainted the House that His Excellency the Governor-General having been informed of the subject matter of this motion, recommends it to the consideration of the House.'"

The point to which I wish particularly to direct attention is this: That all measures introduced into the House that involve a tax or a charge upon the community must be preceded by a message from the Crown, which message may be delivered in the way it was delivered here last evening by the first Minister of the Crown, or in the ordinary way by message direct from the Governor himself in writing. Verbal messages, I may inform the House, are not delivered in the House of Commons on questions of supply or money grants. The House of Commons invariably insists upon a written message, which is delivered by the first Minister of the Crown. I will not trouble the House by reading the course of proceedings in the House of Lords, because it does not apply in this instance, but will point out the practice of the House of Commons:—

"In the House of Commons, the member who is charged with the message appears at the bar, when he informs the Speaker that he has a message from Her Majesty to this House signed by herself; which, on being desired by the Speaker, he brings up to the chair. The message is delivered to the Speaker, who reads it at length, while all the members of the House

are uncovered. On the 21st March, 1882, Mr. Speaker explained that a message from the Crown, under the sign manual, was always received by members uncovered; but that this custom did not apply to an answer to an address."

Verbal messages to the House, delivered by Ministers of the Crown, from the Crown, would simply apply to members themselves. If a member, being also an officer of the army or navy, were arrested by a military court-martial, then the Minister for War would, by command of the Crown, inform the House by a verbal message that an officer, who was also a member of the House of Commons, had been arrested. It is only in these cases that verbal messages are delivered. In all cases of motions for supply, or for money appropriations, the messages must be in writing, and are read from the chair by the Speaker at the initiation of the proceedings. I had intended to have called attention to-day to the matter which the Premier has now adverted to, in connection with another measure, in order to regulate proceedings of this kind in the future.

Mr. NORTON said: Mr. Speaker,—I would like to ask if the statement you have just made to the House will affect the proceedings of last night? It appears to me from your statement that they are irregular. Of course, it will not do for them to be called into question afterwards if they are not in accordance with the usual practice. I would also ask you how it will affect the motion this afternoon?

The SPEAKER: Of course, so far as the motion I now put to the House is concerned, it cannot affect it. So far as any proceedings which took place last night are concerned, that is entirely a matter for the House to determine. I have considered it my duty to point out the Parliamentary procedure in the Canadian House of Commons and the British House of Commons, the latter being the one by which we principally guide our proceedings in this House.

Question put and passed.

DEPUTY ADMINISTRATOR OF THE GOVERNMENT.

The PREMIER presented a copy of a proclamation appointing the Chief Justice Deputy Administrator of the Government.

QUESTION.

Mr. KATES asked the Minister for Works—

When will he be in a position to lay upon the table of the House the plans, specifications, etc., for the first sections of the Warwick direct and the Warwick and St. George railway lines respectively?

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

The Chief Engineer has been instructed to report upon the direct line from Ipswich to St. George, *viâ* Warwick, which he will do as soon as possible after he returns from Rockhampton; and on receipt of his report I shall be in a better position to give the hon. gentleman the information he requires.

PETITION.

Mr. LUMLEY HILL presented a petition from certain pastoralists in the South Kennedy and Leichhardt districts, complaining that some of the provisions of the Land Act of 1884 bore upon them oppressively, and praying that their rents might not be raised above what they at present paid. He moved that the petition be read.

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

On the motion of Mr. LUMLEY HILL, the petition was received.

AMERICAN SEED CORN.

The COLONIAL SECRETARY (Hon. B. B. Moreton) said: Mr. Speaker,—I wish to make a statement pursuant to a promise I made last week to give the House what information I could with respect to the distribution of the seed corn that has arrived from America. I may say that there are 725 applicants for the corn. I have divided them in accordance with the localities in which they reside, so that they may receive their share of the corn from the police magistrates in the different centres of population to whom it will be sent for distribution. It will be sent to the police magistrates at St. Lawrence, Gladstone, Rockhampton, St. George, Roma, Townsville, Herberton, Cardwell, Ingham, Beenleigh, Nanango, Ipswich, Tiaro, Bundaberg, Gympie, Maryborough, Mackay, Normanton, Gayndah, Cairns, Cooktown, Port Douglas, Springsure, Toowoomba, Dalby, Warwick, Goondiwindi, and Brisbane. I may say that although the Government only imported 200 bushels, Messrs. Shaw and Company imported more, and have allowed the Government 30 bushels, making 230 bushels available for distribution. That will enable the 725 applicants on the list to get a quarter of a bushel each, and will leave 45 bushels still on hand for the purpose of further distribution amongst those who may not yet have applied. I am trying to make arrangements that the National Association shall have some of it on the tables at their show in Brisbane for sale there, as there will likely be a large number of people there willing to buy some at the time.

Mr. NORTON: For sale?

The COLONIAL SECRETARY: Yes; they are all to pay for what they get. The corn has cost the Government 13s. 2d. per bushel landed here. That is the actual cost landed here, and when it has been distributed amongst the different applicants in the various localities it will have cost something like 15s. 6d. per bushel. There are two varieties of corn sent. I may take this opportunity of expressing my gratification and thanks to Messrs. Shaw and Company for the trouble they have taken in bringing it out here. They charged no commission upon it to the Government, but gave it at the actual freight. The cost of its introduction has been greatly increased by the fact that it has been packed in half-bushel tins, to preserve it from the changes of climate to which it was exposed while on shipboard. It will be kept in the tins until it gets to its proper destination for distribution.

Mr. NORTON said: Mr. Speaker,—I may be allowed to say upon this matter that I think it rather unfortunate that it was not stated before that payment would be demanded for this corn. I believe the hon. gentleman would have had fewer applications if it were generally known that payment would be demanded at the rate of from 13s. to 15s. per bushel.

The COLONIAL SECRETARY: There is no motion before the House.

Mr. NORTON: I know there is no motion before the House, and I merely wish to point out that if it were known that applicants would be charged at anything like that rate for the seed, there would have been fewer applications sent in.

The COLONIAL SECRETARY: I may say, in reply to the hon. gentleman, that everybody who asked me for this corn knew full well that they would have to pay for it, and the price was generally stated at something like what I have mentioned. Everybody I spoke to about it knew they would have to pay for it.

Mr. NORTON: I did not. I applied for some, but I did not understand that I would have to pay for it.

Mr. KATES: Mr. Speaker,—It seems to me an extraordinary thing——

The SPEAKER: There is no question before the House.

MOTION FOR ADJOURNMENT.

AMERICAN SEED CORN.

Mr. STEVENS said: Mr. Speaker,—If I am in order, I would like to make a few remarks upon this subject, and I shall conclude with the usual motion. I am very glad indeed to have received the information given by the Colonial Secretary. This seed corn has been looked forward to with a good deal of anxiety by a number of farmers. I would sooner that the hon. gentleman had made inquiries, before he distributed the corn to anyone, as to whether all the persons applying for it were *bonâ fide* farmers. I am given to understand that many persons have applied for it merely for experimental purposes.

The COLONIAL SECRETARY: No.

Mr. STEVENS: The hon. gentleman says "No"; but is he quite sure that all who have applied for it are *bonâ fide* farmers? The corn is wanted purely for the purpose of seed, and if the small quantity given to each farmer is carefully cultivated there will be a large quantity of it available at the end of the year. With regard to the corn which is proposed to be sent to the exhibition, I think it is a very good idea to give the general agricultural public an opportunity of examining it and also of purchasing some, but I am of opinion that in that case also the proviso should be made that only *bonâ fide* farmers shall be allowed to become purchasers. I move the adjournment of the House.

Mr. ISAMBERT said: Mr. Speaker,—I would like to ask the Colonial Secretary, as tomorrow is the day fixed for holding the agricultural show at Rosewood, and the hon. gentleman has promised to be present, whether he intends to take any of this corn to that place? At the same time I may mention that all hon. members are cordially invited to attend the show.

Mr. KATES said: Mr. Speaker,—The general mpression among the farming community when the importation of this corn was first mooted was that they would receive the maize free of all charge. That was what I understood. But if the Colonial Secretary informed the applicants beforehand that they would have to pay for it, that is a different matter. I expected, however, that it would have been distributed among the farmers without their paying anything for it.

Mr. ALAND said: Mr. Speaker,—I think the hon. member for Darling Downs pays the farmers a very poor compliment indeed in making any suggestion of the kind he has just made to this House. I know that in the neighbourhood of Toowoomba the farmers expected to have to pay for the seed corn imported by the Government.

Mr. KATES: They do not grow much there.

Mr. LUMLEY HILL said: Mr. Speaker,—I wonder whether the farmers expected the people of the country to put the seed in for them after they received it free, and then to irrigate it when sown! Perhaps they expect the hon. member for Darling Downs to irrigate it for them, and then probably reap it and thrash it. I think there ought to be some limit to the expectations of the farmers in the neighbourhood of the hon. member for Darling Downs.

The COLONIAL SECRETARY said: Mr. Speaker,—In reply to what has fallen from the hon. member for Logan, I may state that I went through the list of applicants, and, as far as it was possible to find out, struck out the names of those who were not *bonâ fide* farmers. But for all that, I have no doubt that some may have been left on who are not actually *bonâ fide* farmers. Nevertheless, if they sow the corn and experiment with it, they will do the country some good. With regard to the farmers having to pay for the corn, I would inform hon. members that in nearly every case the applicants when sending for the seed stated that they were perfectly willing to pay any expense incurred.

The MINISTER FOR WORKS said: Mr. Speaker,—I am quite sure that the farmers on the Darling Downs will not thank the hon. member who represents them (Mr. Kates) for the speech he has delivered here this afternoon. They did not want to get the seed for nothing, but were quite willing to pay for it.

Mr. GRIMES said: Mr. Speaker,—I can assure the hon. member for Cook that the farmers have no desire that they should get this seed corn without any payment whatever. They look upon the blight that has affected the maize as being spread over the whole colony of Queensland, and being therefore a national trouble; and they applied to the Colonial Secretary, thinking that the Government would be in a better position to get good, pure seed than farmers would be by sending an order privately to America. I do not suppose they thought the cost would come to the sum mentioned by the Colonial Secretary. That seems rather a high price for seed corn, unless the charge is accounted for, as the hon. gentleman has stated, by the expensive way in which it is packed. A large quantity of Californian corn has been brought to the colony and sold at usual rates, and a portion of that has, I believe, been used as seed corn at different times. It is probable, however, that the seed imported by the Government may be carefully selected maize grown from picked sorts for some considerable time, and its character may thus have been thoroughly established. In that case, I do not think, having regard to the small quantity a farmer will use, that the experiment will be an expensive one for any person.

Mr. ADAMS said: Mr. Speaker,—I will take advantage of the motion for adjournment to say a few words on the subject. People are, I think, only too glad to get a supply of the seed, and are quite willing to pay for it. But there is one matter that ought not to be overlooked. There is a great number of agricultural societies in the colony, and I believe that many of them have applied for some of this seed corn for distribution among the farmers. I think that if there are thirty bushels of corn left over after supplying the applicants whose names are on the list, it would be a wise thing for the Colonial Secretary to forward it to some of the agricultural societies of the colony for distribution. I know that the secretary of the Bundaberg society was instructed to make application for a supply, and when I called at the Colonial Secretary's office the other day I was informed that his application would be taken as that of a private individual, although he represented about 200 persons. I think the officers of such societies are far more likely to know who are *bonâ fide* farmers than the Minister, and I hope the hon. gentleman will accept my suggestion.

Mr. NORTON said: Mr. Speaker,—I would like to ask the Colonial Secretary whether it is the case that applications have been received from agricultural societies and thrown out. We

have heard from the hon. member for Mulgrave that the application made by the secretary of the society at Bundaberg was treated as the application of a private individual?

The COLONIAL SECRETARY: The hon. member has no ground for such an assertion.

Mr. NORTON: I suppose the application was made, and I ask the question because there are other societies besides that at Bundaberg, and many persons have not sent in applications privately, because they thought some of the seed would be sent to the agricultural society in their district. I would just make one remark with regard to the charge made for the corn. I believe the reason it was expected that it would be distributed free, was that, in all cases of a similar nature that have occurred previously, that was the course adopted. I know that I have got bundles of cane and other things on former occasions; but, notwithstanding that, I believe the farmers will be glad to pay for this corn, and I think, if that had been expected from the first, people who are not *bonâ fide* farmers would not have sent in applications.

Mr. ADAMS said: Mr. Speaker,—I crave the permission of the House to make an explanation. I called at the office of the Colonial Secretary the other day, and on reading through the names of the applicants for the seed the Colonial Secretary distinctly stated that Mr. Hogan's name was down as a private individual, and I then pointed out that he was the secretary of the agricultural society at Bundaberg.

The COLONIAL SECRETARY said: Mr. Speaker,—In reply to the hon. member, I may say that Mr. Hogan's name came down for seed corn, and that gentleman said he applied for himself and others, but never mentioned that he was secretary of the agricultural society at Bundaberg. When the hon. gentleman explained that Mr. Hogan represented 200, 300, or 500 persons, I said that if he gave me their names I would put them down on the list. He gave me five names.

Question put and negatived.

FORMAL MOTIONS.

The following formal motions were agreed to:—

By Mr. LALOR—

That there be laid upon the table of the House—

1. A return showing the amount received for railway freights during the six months ending 30th June, 1886, on down-carriage of goods from all stations, Dulbydilla to Dalby inclusive.

2. A return showing the amount received for railway freights during the six months ending 30th June, 1886, on down-carriage of fruit (fresh or dried) and wine from all stations, Dulbydilla to Dalby inclusive.

By Mr. NORTON—

That there be laid upon the table of the House all reports, evidence, and other documents connected with inquiries held into charges against Pilot Henry Birrell in the years 1884 and 1885.

LOCAL AUTHORITIES (JOINT ACTION) BILL—RECOMMITTAL.

On the motion of the PREMIER, the Order of the Day for the adoption of the report on this Bill was discharged from the paper.

The PREMIER said: Mr. Speaker,—I move that you do now leave the chair and the House resolve itself into Committee of the Whole to reconsider clauses 4, 6, 7, 10, 17, 18, 19, and 21, and for the consideration of a new clause.

Mr. NORTON said: Mr. Speaker,—I think this is the time to raise the question as to the position the House is in with reference to the statement you made just now. In the proceedings last night a message was delivered from His Excellency the Administrator of the Government in connection with the 26th clause of this Bill. In the official record we have these words—in the course of the Premier's remarks:—

"It had also occurred to him that a recommendation from the throne should have preceded the 26th clause. That was a form which he thought should always be preserved; and as he was in a position to present the recommendation, they might as well omit the clause at once and reinsert it after the form had been complied with."

Now, sir, as the message was not brought down when the Bill was initiated in the House, I ask your ruling whether we are in a position to go on with the Bill now. I will point out that it may lead to very awkward consequences should there be any probability of the matter ever being called in question.

The PREMIER said: Mr. Speaker,—With regard to the point of order raised by the hon. member, I will quote from "May," page 507:—

"The Royal recommendation is signified to the Commons by a Minister of the Crown on receiving petitions on motions for the introduction of Bills, or on the offer of other motions involving any public expenditure or grant of money not included in the annual estimates, whether such grant is to be made in the Committee of Supply or any other committee, or which would have the effect of releasing or compounding any sum of money owing to the Crown."

Then, after referring to the Royal consent, and other matters—

"The mode of communicating the recommendation and consent is the same; but the former is given at the very commencement of a proceeding, and must precede all grants of money, while the latter may be given at any time during the progress of a Bill in which the consent of the Crown is required, and has even been signified on the final question that this Bill do pass."

There is a note to the first part of that passage—

"To a clause about to be proposed for that purpose in committee on a Bill, 20th June, 1861, 116 Com. J., 285."

The reference is to a recommendation made with respect to a clause which was about to be proposed in the Conway and Llanrwst Railway Bill. The entry in the "Commons Journal" is as follows:—

"The Order of the Day being read, for the committee on the Conway and Llanrwst Railway Bill;

"And a motion being made, and the question being proposed, that Mr. Speaker do now leave the chair;

"Mr. Mowbray, by Her Majesty's command, acquainted the House that Her Majesty, having been informed of the subject-matter of a clause concerning a debt due to the Crown, intended to be proposed in committee, recommends it to the consideration of the House."

Thereupon the House resolved itself into committee. I would point out that unless that were the rule it would be impossible to amend in any way a Bill so as in the smallest degree to involve the expenditure of money from the consolidated revenue. It could only be done by withdrawing the Bill and bringing in an entirely new one. In fact, it would be impossible to raise the question in committee at all, because it could not be discussed until the recommendation had been made. That would be an extremely inconvenient rule. For instance, an amendment might recommend itself to every member of the House; some necessary provision perhaps had been omitted; yet it would be impossible to put it in, because the Committee could not even consider it. Whatever stage the Bill might have reached, the only course would be to withdraw it altogether and introduce an entirely new one. The practice of allowing the recommendation to be made when the provision is to be proposed is highly convenient, and as it proves, has not only the sanction of convenience, but of authority. In this case, the Bill as reported to the House last evening, before the recommendation was made, did not contain any provision for the appropriation of money. That had been omitted, and the Bill was then in perfectly regular form. The Bill being in that form, the recommendation was

communicated to the House and the clause was re-inserted. All the requirements of the Constitution Act were therefore strictly complied with.

Mr. SCOTT: I understood you to say, sir, that the objection you took to this message from the Governor was that it was a verbal instead of a written message.

The PREMIER: No; that was not so.

Mr. SCOTT: I understood you to make a distinction of that kind.

The SPEAKER: The point to which I directed the consideration of the House in the earlier part of the proceedings this evening was not so much to the question of receiving a verbal message from the Crown as it was that the message from the Crown must precede the introduction of a Bill making money appropriations. The House having passed a resolution that it is expedient a Bill should be introduced which involves an expenditure of public money, a message from the Crown must precede the introduction of the Bill. Hon. members who were in the House at the time may perhaps remember that a similar question was raised when the then hon. member for Logan, Mr. McLean, introduced a Local Option Bill which was found to involve expenditure of public money in the elections to be held under it. Before the Bill was introduced a message from the Crown had to be brought down recommending that provision be made for that expenditure. That is an interesting fact that will be in the remembrance of hon. members who were in the House at the time. That is strictly in accordance with the 18th section of the Constitution Act, the language of which is almost precisely similar to that of the 54th section of the British North American Act, to which I have previously referred. The 18th section of our Constitution Act provides that—

"It shall not be lawful for the Legislative Assembly to originate or pass any vote, resolution, or Bill, for the appropriation of any part of the said consolidated revenue fund or of any other tax or impost to any purpose, which shall not first have been recommended by a message of the Governor to the said Legislative Assembly during the session in which such vote, resolution, or Bill shall be passed."

The case quoted by the hon. gentleman at the head of the Government was for compounding a debt due to the Crown, which I think is scarcely applicable to the present case, because it does not come within the 18th clause of our Constitution Act. When the Bill now before the House was introduced originally it did not contain the 27th clause in the same form as at present—it did not provide for expenditure from the general revenue; at any rate, not in such general terms as it does now. Had it done so there could have been no doubt whatever on the point, that before its introduction the Bill must have been preceded by a message from the Crown. That clause not having been in the Bill as originally introduced, and the message having been delivered by the first Minister of the Crown before the Bill was recommitted for the insertion of the new clause, the course of procedure now taken by the hon. gentleman at the head of the Government is quite in order. Therefore, as far as the point raised by the hon. member for Port Curtis is concerned, I think the course of proceedings now taken is quite in order.

Question put and passed, and the House went into Committee of the Whole.

The PREMIER said he proposed to amend clause 4 by the insertion of the two following additional definitions:—

"Common Fund"—The common fund provided under Part IV. of this Act;

"Local Government Acts"—The Acts in force for the time being relating to the constitution, powers, and duties of local authorities.

Amendment put and passed.

The PREMIER said that, as a question had been raised as to the meaning of the word "conterminous," he proposed to further amend the clause by the insertion of the following:—

When the districts of two or more local authorities are so situated that the district of each one of the local authorities is adjacent to the district of another of the local authorities, or is only separated from it by a river, creek, or watercourse, the districts of all the local authorities are "conterminous" within the meaning of this Act.

Mr. NORTON said the proposed definition of "conterminous" would not cover the case of divisions separated by a railway line or a reserve.

The PREMIER: In cases of that kind they would be adjacent.

Mr. NORTON said two divisions could hardly be called adjacent if they were separated by a railway line, or reserve, each side of which would be the respective boundaries.

The PREMIER said it was extremely unlikely that any divisional board district was bounded by a railway fence. The railway line would be the boundary, and if that was so then the two boards would be adjacent. He was quite sure that no two adjacent divisional board districts were bounded by the several fences of a railway line.

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

The PREMIER moved the omission from clause 6 of the words, "laws in force for the time being," with a view of inserting "Local Government Acts."

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

On the motion of the PREMIER, clause 7 was amended to read as follows:—

Subject to the provisions hereinafter contained, the Governor in Council may, from time to time, by Order in Council—

(1) Constitute a joint local authority by the union of any two or more local authorities whose districts are conterminous;

(2) Join, for the purposes of this Act, the whole of the district of one local authority, or a subdivision or other part of such district, to the whole or a subdivision or other part of the district or districts of another local authority or other local authorities: provided that the districts of all the local authorities are conterminous;

(3) Constitute a joint local authority for the management and control of any district consisting of districts or parts of districts so joined;

(4) Determine and alter, subject to the provisions of this Act, the constitution of any joint local authority;

(5) Alter or vary the area of a district under the management and control of a joint local authority;

(6) Dissolve a joint local authority;

(7) Rescind, alter, or vary any such Order in Council;

(8) Settle and adjust any rights, liabilities, or matters which in consequence of the exercise of any of the foregoing powers require to be adjusted.

On clause 10 — "Constitution of joint boards"—

The PREMIER moved the insertion of the words "or after the occurrence of a vacancy in the office of any representative of such local authority" after the word "authority," in line 20. The paragraph would then provide that if a local authority refused or neglected for one month after the constitution of a joint local authority, or after the occurrence of a vacancy, to elect a representative or representatives, the Governor in Council might appoint a representative or representatives as the case might be.

Amendment put and passed.

The PREMIER moved the omission of paragraph 8, with the view of inserting the following :—

(8.) Subject as aforesaid an elected representative shall remain in office for such period, not exceeding two years from the date of his election, as is declared at the time of election by the local authority by which he is elected, or, if no such period is declared, for the period of two years.

(9.) A representative appointed by the Governor in Council shall hold office for the period of one year from the time when the power to appoint him accrued.

The amendment would make the provision more definite.

Amendment put and passed.

On the motion of the PREMIER, paragraph 10 was omitted with a view of inserting it at the end of the clause.

Clause, as amended, put and passed.

The PREMIER moved the following new clause to follow clause 16 :—

When a joint board is dissolved, its rights, assets, and liabilities shall devolve upon the component local authorities, and the Governor in Council may, by Order in Council, declare and apportion the rights and liabilities of the several component local authorities in respect thereof, and such local authorities shall respectively have and be liable to such and such part of the rights, assets, and liabilities of the joint local authority as are so declared. And every such Order in Council shall have the same effect as if it were a part of this Act.

Clause put and passed.

A verbal amendment was made in clause 17.

Clause 18 was further amended by the insertion of the words "or Acts" after the word "Act," in line 14; the insertion of the words "subject to the provisions of the last preceding section" after the word "and," in line 15; and the insertion of the words "or Acts" after the word "Act," in line 18.

Clause 19 was further amended by the insertion of the words "and during the existence thereof, but no longer," after the word "authority," in line 20; and by the omission of the words "during the existence of the joint local authority" after the word "shall," in line 22.

Clause 21 was passed with a further verbal amendment.

On the motion of the PREMIER, the House resumed, and the CHAIRMAN reported the Bill with further amendments.

The PREMIER moved that the Speaker leave the chair, and the Bill be recommitted for the purpose of further considering clause 10.

Question put and passed, and the House went into Committee accordingly.

The PREMIER moved that the clause be further amended by the insertion after paragraph 7 of the paragraph which appeared as paragraph 10.

Amendment put and passed.

Clause, as amended, put and passed.

On the motion of the PREMIER, the House resumed, and the CHAIRMAN reported the Bill with a further amendment.

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

ELECTIONS TRIBUNAL BILL—COMMITTEE.

On the motion of the PREMIER, the Speaker left the chair, and the House went into Committee of the Whole to consider the Bill.

Clause 1—"Short title"; and clause 2—"Commencement";—passed as printed.

On clause 3—"Repeal"—

Mr. CHUBB asked if the Premier thought it worth while to retain the proviso to the clause dealing with a petition not disposed of at the commencement of the Act? There was hardly any possibility of a petition being presented before the Bill became law.

The PREMIER said it was quite possible. They never could tell when the session would end, and they were bound to make provision for a contingency of that sort. There might be an election at any time.

Clause put and passed.

Clause 4—"Interpretation"—put and passed.

On clause 5—"Provisions of 49 Vic., No. 13, Part VI., to come into operation"—

The PREMIER said this clause was framed so as to meet the terms of section 110 of the Elections Act of last year, which provided that—

"The provisions of this part of the Act (Part VI.) relating to the elections tribunal and the incapacities and disabilities to become consequent upon the report of that tribunal, 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."

This clause, in the words of that section, declared that those provisions of Part VI. of the Elections Act should come into operation.

Clause put and passed.

Clause 6—"Petition against sitting member or return of writ"; and clause 7—"Petition to be presented to Supreme Court; when to be presented";—put and passed.

On clause 8, as follows :—

"The registrar shall forthwith publish a copy of the petition in the *Gazette*, and the returning officer of the electoral district shall publish a copy thereof in some paper circulating in the district.

"The petitioner shall cause the petition to be served upon the sitting member, if any."

Mr. FOXTON said he noticed the concluding paragraph of the clause said—

"The petitioner shall cause the petition to be served upon the sitting member, if any."

Suppose the sitting member evaded the service of the petition? Such things had occurred in this colony before. He was aware that under clause 46 the judges had power to make rules under the Bill, and probably the rules might be made to deal with that difficulty. He thought that was done in England, that evasion of the service of a petition was dealt with by the rules framed; but he did not know whether it should not be dealt with in the Act itself.

The PREMIER said it was difficult to describe exactly how the petition should be served on the sitting member. There were various ways in which it could be done—by service on some person in communication with him, or it might be put in some newspaper he was likely to see. The manner would vary according to circumstances, and he did not see how they could formulate them all.

Clause put and passed.

Clause 9—"Parties to petition"—put and passed.

On clause 10, as follows :—

"The petitioner shall pay into court with the petition the sum of one hundred pounds to the credit of the matter of the petition, which sum shall be liable to be applied, upon the order of the elections judge, towards the costs of the respondents to the petition as hereinafter provided, or for the purpose of restoring the same to the petitioner, wholly or in part, as the case may require."

The PREMIER moved the omission of the words "for the purpose of restoring the same" in the second last line of the clause, with a view of inserting the words "may be restored."

Mr. FOXTON said that before the amendment was put there was a matter he wished to refer to, and which he should perhaps have mentioned before the previous clause was passed. Section 51 of the English Act provided that where an election petition was sent in on the ground of misconduct on the part of a returning officer, such returning officer should, for the purposes of the Act, be deemed to be a respondent. Elections had occurred where the conduct of the returning officer had been called in question, and it would tend to the proper conduct of elections if returning officers were rendered responsible by being made liable to become respondents in an action taken by petitioners. Petitioners would of course join the returning officer as a respondent, at their own risk, and might be saddled with the costs of the returning officer. They certainly would have to pay those costs if he could show that he had acted with *bona fides* during the election. If the returning officer acted in an impartial and proper manner he would have nothing to fear from such a clause as that which he suggested, and it appeared to him that it would be a satisfactory thing to have a hold, as it were, on returning officers. Those who did their duty would have nothing to fear, but those who did not would be liable to be put down as respondents to the petition, and mulcted in costs. It was very poor satisfaction to anyone who had suffered from a returning officer not doing his duty for that officer to be dismissed.

The PREMIER said the 9th clause of the Bill provided that any person complained against in a petition might become a party to the petition. But he thought that if they were to render a returning officer liable to pay costs whether he appeared or not, it would greatly increase the difficulties of getting returning officers. There was considerable difficulty at present. Sometimes they were obliged to have recourse to Government officers to fill the position, which was very undesirable. He knew a case in which three gentlemen were applied to and they refused, though one was got at last to accept the position. If returning officers were liable to pay costs for making mistakes, men would be much more likely not to accept the office.

Mr. FOXTON said his contention was based upon the rule laid down by the Supreme Court with reference to justices of the peace. In the case of a prohibition, for instance, against a prosecutor and the justices, the court never awarded costs against the magistrates unless there was a very gross case of *mala fides* on their part. That appeared to have worked well in the case of magistrates, and he thought it was by no means clear that it would work in a less satisfactory manner in regard to returning officers, who certainly held very responsible positions and had large interests in their hands.

Mr. NORTON said he thought it would be rather unwise to impose such responsibilities upon returning officers as those suggested by the hon. member for Carnarvon. He knew a great many persons who would not accept the position now; they did not like it, and he believed the effect of the proposed amendment would be, as the Premier had said, to make men more reluctant to accept it.

The HON. J. M. MACROSSAN said he was rather inclined to agree with the hon. member for Carnarvon. He did not think there was any absolute necessity for returning officers being voluntary and unpaid. A person who accepted that position should undertake to perform his duties in a faithful and impartial manner, and the amendment spoken of by the hon. member would only apply in cases where those duties were performed otherwise than faithfully and impartially. There was a great deal to be said in favour of the suggestion. He was not quite certain whether the hon. member said the clause was in the English Act.

Mr. FOXTON: It is section 51 of the English Act.

The HON. J. M. MACROSSAN said he thought it was a very good idea, and he had no objection to the returning officers being paid, or to Government officers holding the position.

The PREMIER: I was referring particularly to police magistrates.

The HON. J. M. MACROSSAN said that police magistrates were often returning officers in the North.

Mr. STEVENS said he would ask the hon. member for Carnarvon whether he meant the amendment which he had just suggested to apply to the returning officers only, or to presiding officers as well? There was a great difference between them. There was only one returning officer, but there were several presiding officers at an election. If the hon. member only meant the returning officer, then a police magistrate was often a returning officer, and he was a paid officer of the Crown.

Mr. FOXTON said that in the clause which he read it was not provided that presiding officers should be included. He took the clause as he found it in the English Act; but seeing that presiding officers were as a rule paid for their services, it seemed to him that they might be also included in the provision.

Mr. NORTON said he thought the hon. member referred to both presiding officers and returning officers, because the objection which had been urged applied more to presiding officers than to returning officers. There was a difficulty in getting those officers, and if the amendment were adopted it would make it very hard to get anyone to act at all.

Mr. FOXTON said his experience was that the position of presiding officer was rushed after, and the difficulty was for the returning officer to choose between the number of applicants for the position, as it was known there was a slight emolument attached to it.

Question—That the words proposed to be omitted be so omitted—put and passed.

Mr. STEVENS said, of course, if a returning officer or presiding officer was tried by that tribunal, the trial would be under the 23rd clause, which provided that the tribunal should be guided by the real justice and good conscience of the case; so that if any informality was committed by the returning officer accidentally he would not suffer any penalty, and if he was really guilty of committing a wrong action intentionally he could be punished under the Elections Act.

The PREMIER: He would be very severely punished in that case.

Mr. STEVENS said he did not think, therefore, that it was absolutely necessary to include those officers in the clause. If they did wrong inadvertently nothing would be done to them, but if they laid themselves open to conviction for having done any wrong intentionally they could be dealt with under the original Act.

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

On clause 11, as follows :—

"Election petitions shall be heard and determined by an elections tribunal, which shall consist of a judge of the Supreme Court and six assessors, being members of the Assembly, and who shall be chosen as hereinafter provided.

"Such tribunal shall also have power to inquire into and determine all questions which may be referred to it by the Assembly respecting the validity of any election or return of any member to serve in the Assembly, whether the question relating to such election or return arises out of an error in the retnrn of the returning officer, or out of his failure to make a return, or out of an allegation of bribery or corruption against any person concerned in the election, or out of any other allegation calculated to affect the validity of such election or return, and also upon all questions concerning the qualification or disqualification of any person who has been returned as a member of the Assembly."

The HON. J. M. MACROSSAN said he had an amendment to propose, which he hoped the Premier would accept. Hon. members would remember that, when the principle of the Elections Bill was before the House last session, great objection was taken to the existing plan for the trial of disputed elections, and those objections were chiefly based upon the alterations in the Act, by which extreme penalties were introduced. That Act was a complete copy of the English Elections Act——

The PREMIER : It is very different indeed.

The HON. J. M. MACROSSAN said he had read both Acts carefully, and there was very little difference between them. At any rate, the penal clauses in the Act were too severe to be left to the decision of a tribunal in which every member of the House had not the fullest confidence. It was contended by many members that, while they were adopting the English Act in other respects, they should also adopt the English system of trying disputed elections—leave them to the judges or a judge. Nothing could be fairer than that. Hon. members knew that the mode of trying disputed elections here had not been in existence in England since 1868. Several systems had been tried before that, but the one in existence up till 1868 for the greatest part of this century was similar to the one in operation here—the appointment of a committee by the Speaker. That worked very badly. The English House of Commons found that impartial decisions could not be obtained from a committee constituted in that way, and the law on the subject was altered before the introduction of the Elections Act which this Parliament had copied last year. That Act had only been two or three years in existence, whereas the law relating to the tribunal was altered in 1868. The judges had been trying the election petitions in England, Ireland, and Scotland ever since, and he believed they had given general satisfaction by their decisions. The great objection raised by the hon. gentleman at the head of the Government to the trial of election petitions by judges was on the score of expense. Now, in this Bill they had the expense without the impartiality.

The PREMIER : No ; we have not.

The HON. J. M. MACROSSAN : They would have a judge of the Supreme Court sitting as chairman of the tribunal, and both sides would have to go to all the expense they would incur if no assessors were appointed by the House.

The PREMIER : No.

The HON. J. M. MACROSSAN said he hoped the Premier would alter his mind at the eleventh hour, and let disputed elections go to the judges for trial without the assistance of any member of the House. To give the hon. member an opportunity of altering his mind he would move the omission of all the words in the 1st paragraph of the clause after the word "court." He believed both sides of the Committee approved of the principle of the Bill, and that the great difference was simply as to the mode of trial. If his amendment were adopted it would leave the trial entirely in the hands of the judge ; and if they could not expect an impartial trial from the judges, he really did not know where they were to get it.

The PREMIER said he did not propose to go at length into the question of the reasons for not appointing the judges alone, but he wished to say a few words in answer to the arguments which the hon. member had addressed to the Committee. The hon. member said that the principal argument last session against leaving the trial to a judge alone was the ground of expense, and that all that expense would be incurred under this Bill. There the hon. member was wrong ; provision was made in the Bill for trying election petitions upon evidence exactly similar to that admitted now. Affidavits taken before justices might be received, and generally the evidence might be taken in any way the tribunal thought fit to direct. Now, he would not give that power to any single man living. He would not entrust any man he knew with the power to take evidence in any way he liked. That was a power that could only be given to several persons working together, and if they differed in opinion, so much the better. Nor would any man having any regard to his own reputation dare to exercise such a power. He was certain that if they left a case to be tried by a judge alone he would only try it according to the strict rules of law ; because the moment he departed from the regular rules followed in a court of justice, it would be said that he favoured one side or the other. If for no other reason, he would be bound, for the sake of his own reputation, and to preserve the administration of justice from suspicion, to adhere to the strict rules. Otherwise, he would be administering law by caprice, and they could not trust any man's judgment to exercise authority of that kind. It would be seen, then, that the legal expenses would all be incurred. There were many other reasons why it was not convenient to adopt the system of trial by a judge alone. It had been found in England that one judge was not enough, and now there were two employed. There were a good many more judges available in England than there were here. Besides that—he said it with all respect to the judges here—the judges in England were much more removed from actual contact with members of Parliament than in this colony. It often happened in the circumstances of the colony that the judges were intimately associated in one way or another with members of Parliament ; and he thought that, under those circumstances and for many other reasons, it was better to leave the clause as it stood. If the hon. member carried the amendment, the Government would certainly not proceed with the Bill.

HONOURABLE MEMBERS : That is a threat.

The PREMIER . Hon. members said it was a threat ! It was nothing of the sort. In bringing in the Bill he had pointed out that the Government did not see their way to adopt the proposal of leaving election petitions to be tried by the judges alone. They would not take the responsibility of accepting that scheme, and they had a perfect right to say so ; and they ought to say so at the earliest possible opportunity. He preferred the present tribunal to that proposed in the amendment, but he thought the proposal contained in the Bill would be better than either. That

was the proposition the Government had brought down; it had been accepted by the House on the second reading, and they were now prepared to carry it out.

Mr. NORTON said that for his part he greatly approved of trial by judges. If enough confidence could not be reposed in one judge, why not have two, or even three? One of the Premier's arguments struck him as being rather unsuitable—namely, that if the cases were to be tried before a judge, the judge would have to be guided by the strict rules of law. According to the Bill, the judge had to decide questions of law, while the jury or assessors were to decide questions of fact. The law of the Bill was not what he might call the strict rules of law, but a modification of them to suit the purposes of the Bill.

The PREMIER: I ought to have stated that I was not speaking of the strict rules of law, but of the rules of law with regard to the admission of evidence.

Mr. NORTON said that of course made a difference, especially as the judge would have to decide questions of law in a different manner from that in which they were decided in ordinary courts of law. With regard to the proposed tribunal, it was admitted by nearly every member that it was highly desirable that the existing system should be got rid of. That fact was shown by the introduction of the Bill. Yet, dissatisfied as they were with the present tribunal, the Government were not prepared to abolish it, but must mix it up with something else, or mix something else up with it. There were one or two members present who believed in the Elections and Qualifications Committee, but the great majority were opposed to it. If the old tribunal was not a good one, for the reasons which had been alleged against it, they ought to get rid of it altogether. It was admitted on all hands that members of Parliament could not help being prejudiced in favour of one party or the other; indeed, they might be violently prejudiced without for a moment intending to be so. In all cases they erred more or less in that direction, and, accordingly, he considered that while they were making a change they might as well wipe out the old system altogether.

Mr. STEVENS said there were other clauses in the Bill that were dependent upon the clause under discussion, and it would not be out of place, therefore, to debate the matter a little generally. The Premier had said that if the amendment was carried they would see no more of the Bill. Did the hon. gentleman intend to make the same statement with regard to any other amendment that might be proposed in it?

The PREMIER: This clause contains the whole principle of the Bill.

Mr. STEVENS said that some hon. members might, for instance, wish to see an alteration made in the clause constituting the assessors, while others might desire to amend the clause relating to costs. But if the Premier intended to meet all amendments that might be proposed in those and other clauses in the same manner as he had met the amendment just proposed by the hon. member for Townsville—namely, that if accepted by the Committee he would refuse to proceed with the Bill—the only course to be followed by those who did not believe in the Bill was to vote steadily against it.

The PREMIER said there was a great difference between that clause and any other clause in the Bill, for by it was to be decided whether they were to have a judge and assessors or a judge alone. The Government proposed a judge and assessors, and they were not prepared to accept a judge, and would not take the responsibility of passing a Bill to give effect to it. As to the mode of constituting the panel of assessors, that was a matter of detail, regarding which he should be very glad to hear any improvements that might be suggested by way of getting a more impartial panel. It was absurd to say that the Government would not accept any amendment in that section. Suggestions, he supposed, would be made on the subject, and they would be considered and received by the Government with every desire to make the Bill as good as it could possibly be made; but by passing the second reading of the Bill they had, in effect, affirmed the 11th clause.

Mr. LUMLEY HILL said he intended to support the clause as it stood, as he believed it to be a very desirable amendment on the existing tribunal. The leader of the Opposition asked why, if they were dissatisfied with the Elections and Qualifications Committee, not abolish it altogether? He (Mr. Hill) did not believe in rushing into extremes. Modify the system in the first place, and then, if it did not answer in its modified form, there would be plenty of time to do away with the assessors, and leave the trials entirely in the hands of a Supreme Court judge. But it was by no means certain that the Elections and Qualifications Committee had given general dissatisfaction. Of course it had not pleased the parties against whom it had decided, but its decisions in the main had been tolerably reasonable. He said that, although personally he had had as much reason to grumble at them as anybody——

Mr. HAMILTON: You had no reason to grumble. You should have been well satisfied.

Mr. LUMLEY HILL said a great many people considered the California Gully affair an extraordinary arrangement — 196 votes being counted where only fourteen men had voted. Taking the odd 182 votes was enough to disqualify the man who took them. However, the committee did not think so. They took a very lenient view of the situation, and one that his hon. colleague ought to be very grateful to them for.

Mr. HAMILTON: But you dare not accept my challenge.

Mr. LUMLEY HILL said the leader of the Opposition had suggested that members of Parliament should be abolished from election tribunals. It would not perhaps be a bad thing for that hon. gentleman to move a motion for the total abolition of Parliament, and then they might be governed by judges or commissioners, or anyone else.

Mr. STEVENSON said the hon. member for Cook had asked the Committee to be satisfied with the proposed modification of the existing system. But it was more a modification in name than in fact. He himself had been greatly disappointed after the promise made by the Premier last session, that he would introduce a measure constituting a tribunal that would be acceptable to both sides of the House. Well, he did not think that the proposal was likely to be acceptable to both sides of the House. As far as he could see, it might be a modification in one sense, but it was not in the other. He believed the same amount of political feeling would be imparted into that tribunal as into the existing Committee. The Chief Secretary knew perfectly well that the Speaker generally arranged matters so that the Government of the day had a majority on the Committee, and he would arrange the new tribunal in the same way, and small blame to him. He did not

blame him; but at the same time he thought that although hon. members would not wilfully do an injustice, still they were prejudiced, and therefore it would be a very desirable thing to do away with their connection with the trial of election petitions. He should certainly support the hon. member for Townsville in his amendment. The Premier said there were more judges in England to choose from, but he (Mr. Stevenson) did not see why three judges should not be substituted for one, as the hon. gentleman was not willing to leave it to one judge to decide. He thought they ought to get rid of political feeling in matters of that kind. It would certainly be much better and more satisfactory to the House and to the country.

Mr. FOOTE said he did not see his way to support the amendment of the hon. member for Townsville. According to his (Mr. Foote's) idea he thought the plan proposed was about the best that could possibly be devised so far as having the effect of removing doubts from the minds of those who had been defeated. He thought the hon. member who had just resumed his seat made a mistake, and he (Mr. Foote) saw the matter in a very different light. The hon. member had said the Speaker had power to nominate the Elections Committee. So he had, but hitherto there had been three on one side and four on the other. The proposal now was that there should be six assesors, and the seventh was to be the presiding judge, who was supposed not to belong either to one side or the other. Therefore he could not see that they could have anything more fair than that which the Bill provided for. He should not be disposed to hand over to the judges of the Supreme Court the cases that came before the Elections and Qualifications Committee, because if that were done there would be very few petitions indeed. It would amount to this simply: that the man who had the most money and was capable of carrying out the greatest amount of corruption would be the man who would get the seat and retain it, because the philanthropy of parties would not go to the extent of using their money in order to unseat a candidate. As it was, he thought that the cost that would accrue under the Bill would be sufficiently heavy to deter many persons from petitioning. He should support the clause as it stood. He liked it very well, and for his own part he was quite prepared to give it a trial.

Mr. HAMILTON said he did not see the benefit that would accrue from the appointment of assessors of the kind proposed by the Bill, but he certainly saw evils that would result from the appointment of such a tribunal. It must be recollected what extreme power was proposed to be given to the tribunal. Every criminal had the privilege of challenging the jury who were to try him. It was against one of the first principles of British law that any person should be allowed to sit as a juryman who was interested in the case. Yet, according to the Bill, the members tried would be deprived of those privileges, for the assessors who sat on the case were all interested parties one way or the other, as their decision affected the political strength of their party. The hon. the Premier had said that he objected to the judge alone being allowed to decide such cases, but judges at home decided them with satisfaction. Last session the Premier objected to that principle, on the ground of expense, but now he urged as his objection that judges in these colonies came in close contact with members of Parliament. If that was a reason why the judge should not be allowed to decide the case by himself, was not that a stronger argument against members of Parliament being allowed to decide when the mere contact by the judge with such persons was considered liable to bias his decision? The decisions of the Elections and Qualifications Committee hitherto had not been satisfactory, although his colleague (Mr. Hill) stated that they had been. On the occasion of the petition against his (Mr. Hamilton's) return, although he knew that there was nothing against him, still he could have capsized his opponents by bringing forward evidence of bribery and corruption, but he was advised by members on his own side not to bring it forward. They stated that although, of course, personation had taken place on both sides, still he was undoubtedly fairly elected, his conduct not having even been challenged in any way. Still, if he had brought forward evidence to show that the hon. member (Mr. Hill) had been guilty of bribery and corruption, the committee, being biased in Mr. Hill's and Campbell's favour, would probably capsize the whole election, and order a new one to be held. For instance, he had affidavits to the effect that at one place outside of Port Douglas there was a publican who every half-hour used to go outside, ring a bell, and shout out, "Come, gentlemen, and drink Mr. Hill's health"; and he never charged anything for the liquor. He (Mr. Hamilton) did not care about bringing these matters forward, but his colleague had brought them forward *ad nauseam*. He appeared indeed to think that everything connected with himself was of the greatest importance to the House and the country. At Port Douglas what did his hon. colleague's committee room consist of? It was situated outside the polling booth, and consisted of a tarpaulin labelled "Hill and Campbell's Committee Room." Inside there was not one single slip of paper, but there were barrels of beer and bottles of grog. That was put up by a man who was an employé of one of Hill and Campbell's committee men, and during the whole of the day those who voted for Hill were supplied with grog free. Directly the polling booth closed, the man who was employed shifted the whole lot of grog and took it away. Now, he was afraid to bring forward that evidence, because, as he had stated, if he had done so the committee, seeing with that evidence that both Campbell and Hill could not sit, would probably have ordered a new election on the ground of irregularity, and he would have had to fight the election over again; whereas the committee were satisfied to let him remain in if they could only seat Mr. Campbell. The hon. member said the other night that, though he had only 579 votes the first time, he had double the number polled by his opponent next time; but the fact was that the last time he had only 585 votes. That was only six votes more than he had the first time, and that was in a constituency where there were more than 2,000 electors on the roll. That proved that he was not elected because he was liked, but because he was not so unpopular as the other man. If there had been a good man in the field the hon. member would not have had a show. The hon. gentleman had never ventured to insinuate after his (Mr. Hamilton's) challenge, though he had gone behind his back to say——

Mr. LUMLEY HILL: When did I say anything behind your back?

Mr. HAMILTON said he read from *Hansard*, in the presence of the House, and of the hon. gentleman, what he had insinuated; but the hon. member had not dared to accept his challenge and repeat it to his face. He apologised for diverging from the subject under discussion, but he certainly thought that no sufficient argument had been brought forward to induce the Committee to accept the clause as it stood.

Mr. WHITE said that really hon. members opposite appeared to have a very bad opinion of members of Parliament. They must know each other pretty well, he supposed; but, for his part,

he had every confidence in hon. members on his side. Really he began to be afraid of hon. members opposite; he certainly felt disinclined to trust them after what he had heard, for they seemed pretty unanimous in the opinion that members of Parliament were not trustworthy. He felt that the honour of members of Parliament was at stake, and he thought hon. members opposite ought to be careful that they did not disparage their own character.

Mr. LUMLEY HILL: "Ill birds foul their own nest."

Mr NORTON said the hon. gentleman's remarks rather supported the argument of the Opposition side. He said he had confidence in hon. members on his own side, but not in those on the other side; and that was really the root of the argument. There was nothing in the Bill to prevent all the assessors being taken from one side of the House. Would the hon. gentleman have perfect confidence in them if they were not taken from his own side? There was nothing to show that the Speaker was to make any sort of equal division as to members sitting on either side of the House. The Speaker might have his prejudices too, though he did not mean to imply that any Speaker would intentionally allow them to influence him.

Mr. KELLETT said he always thought that there would be some difficulty in finding the best court to decide such cases, but he did not think anything could be much better than the tribunal provided in the Bill. It seemed to be a fair one all round. He decidedly objected to the Committee of Elections and Qualifications. Of course it was argued that there was no rule laid down by which the Speaker must choose members as assessors, but he took it that in most cases the Speaker would nominate six from one side and six from the other. Then each side would strike out three, leaving six assessors to act with the judge. He thought the objection against a judge alone was that a judge would take nothing but strictly legal evidence. There was a good deal of evidence to be brought before an elections tribunal which it was very advisable to have; but the moment a judge went beyond the legal evidence he was in the habit of admitting in the Supreme Court he would be accused of prejudice; therefore he would object to anything beyond strictly legal evidence. The object of an elections tribunal was to find out whether there had been fair play or not, and the judge and assessors would be prepared to take all evidence, direct or indirect, that might properly come before them, and on that evidence come to as fair a decision as possible. He thought the proposed tribunal was a very fair one, and one that ought to answer all the purposes for which it was intended.

The HON. J. M. MACROSSAN said the hon. member for Stanley was certainly opposed to the committee as it had hitherto existed, but he said now that the proposed tribunal was the fairest one that could be devised. That was a matter of opinion. There were members on the Opposition side who did not think it fair, and he would ask the hon. member for Stanley and the hon. gentleman at the head of the Government what great objection there was to the judge taking only strictly legal evidence when a man's liberty and position in the country were at stake? When parties were likely to be induced to give false evidence, nothing but strictly legal evidence ought to be taken. The principal Act provided for punishment by two years' imprisonment, the imposition of heavy fines, and expulsion from the House.

The PREMIER: The elections tribunal cannot imprison; they only deal with the seat.

The HON. J. M. MACROSSAN said a man could be imprisoned under the principal Act.

The PREMIER: He must be convicted by a jury.

The HON. J. M. MACROSSAN said that in that particular case a man should be tried by strictly legal evidence. When they imposed such penalties why were they afraid to follow the English system? He took a pride in almost everything else connected with the English system, yet in that particular the hon. gentleman said he would not trust any judge or any one man to take evidence unless it was strictly legal evidence, but he would trust a party of men, of whom more than the majority were not to be trusted—being partisans—he said he would trust a party of party men, but would not trust a single judge. A single judge was preferable in the eyes of every honest man outside the Committee, whatever it might be in the eyes of the hon. member for Stanley, Mr. White. It was not members upon the Opposition side who were disparaging members of Parliament in regard to decisions upon elections; it was the general community who did so. He could find newspapers that generally supported the hon. Premier through thick and thin in his policy actually calling upon their representatives to throw out the Bill, because they did not believe in the system of trial by members of Parliament. Why should not election petitions be tried by strictly legal evidence?

The PREMIER: Why should jurymen try their fellow-citizens?

The HON. J. M. MACROSSAN said because there was a large number—because the jury was not drawn from a small body of men actuated by party motives; and because trials were conducted upon legal evidence. Until hon. members came to the opinion that all the purity did not exist upon the Government side and all the impurity on the other side, they would not come to any decision upon the matter. Really, it would be far better to have the original system, without the penalties, than to have the system proposed in the Bill with extreme penalties.

Mr. LUMLEY HILL said it was very amusing and very edifying to see the hon. gentleman who had just sat down posing as the apostle of purity in the matter of elections, knowing, as they did, that he was the hero of the Ravenswood Junction——

The HON. J. M. MACROSSAN: The hon. member is stating what is not correct. I deny it, and I ask you, Mr. Chairman, to prevent his repeating it.

Mr. LUMLEY HILL said he merely stated that the hon. gentleman was the hero of the Ravenswood Junction and Reidsville voting——

The HON. J. M. MACROSSAN: It is incorrect. I was not there.

Mr. LUMLEY HILL said the hon. gentleman was the absent hero—he would qualify his remark—upon the occasion of the last general election, and before that he was the absent hero of the Burdekin Bridge voting, whereby about 240 votes were recorded at two polling places within sight of one another, where there were thirty or forty navvies employed in building a bridge—the hon. gentleman himself then being the coming Minister for Works. He believed that took place in 1879. It was extremely edifying to the House to listen to men who were notorious through the North for being admirable engineers, to say the least of it, in elections,

posing as apostles of purity, and trying carefully to guard the people's rights and their franchise. For his part he did not think the words of the hon. gentleman would carry much weight where he was so well understood, and where his previous performances were so easily recognised. They were pretty well understood in the district he represented, and were quite as well understood down here. Not only by that Committee, but by the whole country would the necessity for a change of the kind proposed be recognised and appreciated. He intended to support the Bill.

Mr. STEVENS said he might be inclined to vote against the amendment if he was certain about the nomination of the assessors; but that not being the case, he deemed it his duty to vote in favour of the amendment. He might add that the speeches delivered by some of the members of the Committee would show any unprejudiced persons what little hope of impartiality there was.

Mr. ANNEAR said he was one of those who did not think that any change in the late system was required. There had been several election petitions tried during the last few years in the colony. He was thoroughly impartial at that time, not being a member of the House, and therefore could have no feeling in the matter; but having read carefully the evidence taken on those trials, he considered that the decisions that were given were decisions based upon the evidence, and were fair and impartial. When the hon. gentleman at the head of the Government announced last session that he was in favour of another tribunal, he (Mr. Annear) commenced to wonder how he could improve on the late Elections and Qualifications Committee; but when he saw the Bill before them it struck him at once that it was a great improvement, and he hailed it as one that would be generally accepted by the people of the colony. When the hon. member for Townsville compared the judges of these colonies with the judges of Great Britain he made a great mistake. There was no comparison whatever. The judges in Great Britain were generally altogether outside of politics, while nearly every one of the judges in the colonies had been mixed up in politics. When he saw in the Bill before them that the Chief Justice was to nominate annually the judge who should try election petitions, it struck him that there were some judges in Queensland—one in particular, whom he would not name—whom he should be very sorry indeed to see nominated to try a petition in which any member on the Government side of the Committee was interested. He was sure it would be very warm work indeed after what they had seen in the public Press within the last few months. He felt sure that the new tribunal would carry out the duties as fairly as the late tribunal had done in every case. There was no doubt that if the late tribunal were continued the same thing would be done that was done two years past, where two or three dissenting members in the minority could easily say, "We dissent from the decision"; but at the same time that did not alter the evidence. For many years past he had read the evidence taken before the Elections and Qualifications Committee, and he considered that the decisions in every case were just and proper.

Mr. W. BROOKES said he had thought a good deal about the amendment of the hon. member for Townsville, and it seemed to him that it would be anything but an improvement on the Bill. He had watched the progress of a good many election petitions in Queensland, and he knew something about them; and, although he had not always come out with flying colours, at the same time he might say that the worst charge he could bring against the old method was that the strongest party won the day. There was not the least doubt of that. In the old times they knew what would be the result of an election petition before quite as well as after, only they had all the bother. He thought that the clause as it stood was a great improvement on the old plan; but with all its faults he still liked the old plan. Not the least item in its favour was the fun of the thing. It was perfectly true that anyone could tell who would get in, whose petition would be rejected, and who would be the sitting member; but for all that there was, if he might so say, an English feeling about the whole affair which he liked.

An HONOURABLE MEMBER: English fair play!

Mr. BROOKES said the members comprising the Elections Committee were not supposed to be governed by the restraints of rigid and pharisaical rules. They were supposed to decide according to their own judgment—not by law, not by technicalities, but by what in their opinion seemed to be the best thing for the good of the country; and there was no mistake that it had worked very well. The good of the country was served, but still, at the same time, as they grew older they ought to get wiser, and he thought it was about time some such an improvement as that proposed should be introduced. He liked the plan very well for the reason that the Speaker, in the first instance, chose twelve of the members of the House. He had every confidence in the hon. the Speaker whoever he might be—not the gentleman who filled the chair now only. He meant that he did not except the present occupant of the chair any more than he excepted any member of the House. At any rate, so long as he had a seat in the House, he would be prepared to defer to the Speaker. But they could not divest even a Speaker of some measure of party and political feeling. He never tried to, and always could respect the gentleman who occupied the chair. Then there were to be twelve assessors, and they might sit and would be liable to be challenged. There was a great element of safety! Were it not for the provision for challenging he would not like it half as well as he did. The person signing the petition, and the person defending his seat, had both the right to challenge. He could see no objection whatever to it, so far as that went. He certainly thought, he might say here, that the assessors should be members of the House, rather than twelve persons selected indiscriminately from outside. They might go further and fare much worse—take his word for that. He had every confidence in the twelve assessors who should be chosen by the Speaker, and he thought it very likely that they would be chosen six from each side. Under the old plan that was not so. Seven were chosen under the old plan—four of one sort and three of the other—and that, of course, just turned the scale, and that was what enabled them to decide with almost unerring certainty what the decision of the committee would be. But under the new plan, with six assessors chosen from each side of the House, and the right of challenge being given, he thought that substantial justice could not but be done. Then as to the judge: The hon. member for Townsville would permit him, he was sure, to express a mild degree of surprise that he should have all at once fallen into such confidence in a judge. He was very glad to see it, because it showed the hon. gentleman possessed an evenly balanced mind. He did not follow the hon. gentleman in that respect, as he could not say he had the same amount of confidence in a judge.

There was a vast deal of difference, as was pointed out by the hon. member for Maryborough, between judges here and judges at home. A judge in the colony was not the same as a judge in England, though they had seen lately, even in England, that it had been laid at the door of the Bench that even the judges of England—the highest of all the judges in all the world—had been influenced by the breeze of political opinion. If that were so in England, it would apply with a great deal more force here, because, as he had said, every judge they had, with the exception of one perhaps, were gentlemen who had taken an active part in politics.

Mr. LUMLEY HILL : No.

Mr. W. BROOKES : Did any hon. member object to his statement as being correct ?

Mr. LUMLEY HILL : I objected ; but I withdraw my objection on reconsideration.

Mr. BROOKES said he admired the hon. member, who was always ready to admit himself wrong. Every judge, whoever he might be, would have his friends, and there might be, perhaps, those with whom he was not friendly. The very thought of a judge in connection with election petitions produced suspicion in his mind ; he would like to get a good way off him. But what was his office under the Bill ? While he (Mr. Brookes) would be inclined to limit his power to the very narrowest limit, he did not see that he would have any power under the Bill. He sat before the assessors, and what had he to do? Nothing that he could see, except to inform the assessors and instruct them and guide them. But not always ; not all through the hearing, not continuously, not by long dreary addresses, but if they wanted his assistance they asked it, and they got it upon points of law. The conduct of an election petition had not, he thought, much to do with points of law, though they would come up in it, of course, as they were always coming up everywhere. The conduct and carriage of an election petition did not turn so much upon points of law, but should it do so then the judge would inform the assessors upon the points of law which cropped up, and might give his opinion upon them as a guide to the assessors ; so that his office would be rather that of a guide, philosopher, and friend—not much more than that. It would remain in the hands of the assessors mainly to deal with the case before them. Taking these things all round, he thought they could not improve upon the scheme. He would, however, guard the House against falling into the habit of thinking too much about the judges in connection with their legislation. He did not believe they would ever help them. He believed that if they contracted the habit of looking to them for light and leading they would never get it ; they were not the men to give them light and leading such as they required in that House. They could do better than that ; and seeing that the tribunal proposed to be constituted by that Bill ran half-way between placing the matter entirely in the hands of a judge—which he should very much regret—and placing it entirely in the hands of members of the House, to which objections might be raised, it seemed to him that it was a safe middle course. He would be glad if the Committee agreed to have that tribunal. It was not so much in the nature of an experiment as leaving the matter in the hands of a judge. He was rather averse to experiments. He believed rather in the good old ways that they knew, even if they were a little wrong, than in trying experiments which promised safety, but often led a man up to his neck in a swamp. He therefore quite approved of the form and constitution of the proposed tribunal, and had every confidence that it would work well, and give satisfaction to the parties who might come before it, which was the main thing. He thought it would also tend to strengthen the confidence of the public in the mangement of election petitions.

The HON. J. M. MACROSSAN said that had been an evening of revelations, and the strangest revelations and strongest arguments against the provision proposed in the Bill came from the side of the Committee supporting the Bill. The hon. gentleman who had just sat down told them distinctly that under the old system the strongest party always won ; that was, the party that had four members on the Elections and Qualifications Committee was able by a majority of one to beat the party that only had three members on the committee. That was the very thing they had been contending for all along—the very argument they had been advancing—namely, that a spirit of partisanship actuated members, without their knowing it, to such a degree that they could believe that a man petitioning to be seated, if he belonged to their own side of the House, ought to be seated. What stronger condemnation of the old system did they require than that? He did not think they needed any stronger condemnation than that against members of Parliament being on an elections tribunal or an elections and qualifications committee. But the hon. member further told them that he liked that system of partisanship because it was English. He (Mr. Macrossan) always thought that the English prided themselves upon their fair play, and giving abstract and concrete justice as well, not upon a system of partisanship. He should be very sorry to think that such a system was English. But so far from it being English, the English gave it up twenty years ago because it was found to be so un-English. Their ideas of fair play did not square with the system which the hon. gentleman said he liked because it was so English. It was a sort of rough justice that condemned a man first and trying him afterwards. The hon. gentleman also stated that if they knew the names of the members of the Elections and Qualifications Committee they were able to tell who would be seated. He did not know any member of that Committee who had had more experience in those matters than the hon. member for North Brisbane (Mr. Brookes). The hon. gentleman said the petitions always came out right. He (Mr. Macrossan) would be very sorry to say that. Surely the hon. member did not say the committee were right when they unseated him or prevented him getting seated ? If he did, that was an admission that the committee were patriotic enough to keep him out of the House. But he (Mr. Macrossan) would be very sorry to see him out of the House, although their opinions were different. He thought the committee which would put him out on the flimsy pretext on which some members had been put out would be acting very unfairly. The members who preceded the hon. member who had just sat down adopted similar arguments. The hon. member for Stanley said he preferred the proposed system to the one for which it was a substitute, but he (Mr. Macrossan) wanted it made better. Hon. members, however, thought he was not trying to make it better.

The PREMIER : You want a different one.

The HON. J. M. MACROSSAN said he wanted a better one. Hon. members must recollect that when the Bill passed through its second reading all members sitting on that side of the Committee admitted that it was an improvement on the present system. He said now that it was an improvement on the present system, but they wanted to make it still better—to put it

out of the reach of partisans to be able to say to their fellow members — "You shall not have a seat in this House; you must go out and let somebody else come in." The hon. member for Stanley, in speaking of the old system, said he disagreed with it, but in discussing and approving the scheme before the Committee he qualified his approbation and said justice would be obtained "mostly" under that system; that as a rule the Speaker would "mostly" select six members from each side of the House. But what guarantee had they of that? They had no guarantee whatever. Could such a proposition be put in the Bill as that the Speaker must select six members from one side and six from the other, or could such a proposition be put in the Bill as that the Speaker, after consulting the leader of the Government and the leader of the Opposition, should select twelve men as jurors from whom the assessors could be chosen? If that could be done there would be far less opposition to the proposal on that side of the Committee. But allowing that the Speaker was impartial, no matter how impartial he might be—and he admitted that the gentleman who occupied the position at the present time was quite as impartial as any of his predecessors, and probably quite as impartial as any of his successors would be—still he contended that it was not a proper position for the Speaker to be placed in, because he was the nominee of the dominant party in the House. If the Speaker of that Chamber were elected in the same way as the Speakers in the House of Commons, where they were in the chair for a long time, it would be a different matter. They had had Speakers of the House of Commons in the chair for nearly twenty years. If the Speakers in this colony were put into the chair not as the nominee of the dominant party, but as gentlemen agreed upon by both sides of the House, there would be less objection to the proposition.

Mr. NORTON: It is the same in Victoria as in England.

The HON. J. M. MACROSSAN said it had been the same in Victoria for a considerable period. The present Speaker there had been in the chair for a long time now. If that system existed here they would have more confidence in the proposal, but it did not exist up to the present time, therefore they could not have the same confidence in the scheme as hon. gentlemen opposite professed to have. Then, again, there was the cry about the judges. Well, there was only one class that he knew in the country besides hon. gentlemen who occupied seats on the Government benches who were really afraid of the judges, and that was the criminal class. They were afraid of the judges, but why should hon. gentlemen express such great fear of the judges? Had the judges in England ever shown any partiality in their decisions upon disputed elections?

The PREMIER: Some people say so.

The HON. J. M. MACROSSAN said he had only heard of one case, and that was a case in which party feeling ran extremely high—much higher than it ever did in this colony. That was a case tried in Ireland by Judge Keogh; and it was the only case he knew of since the judges were appointed to try petitions where partiality was imputed to any of them. He was not at all afraid to trust the judges. He did not agree with the hon. member for Maryborough, Mr. Annear, that the judges of the colony were inferior to the judges of England. The hon. member was mistaken in saying that the judges in England were not connected with politics, because the leading judges in England were all selected from the House of Commons. With very few exceptions the Supreme Court judges there had been prominent politicians.

The PREMIER: No, not now.

The HON. J. M. MACROSSAN: With very few exceptions. There were three judges in the colony at present.

The PREMIER: Four.

The HON. J. M. MACROSSAN: Yes; four—he had forgotten the Northern judge. One of the three Supreme Court judges in the South had never been connected with politics.

The MINISTER FOR WORKS: He was a candidate once.

The HON. J. M. MACROSSAN: That was a very remote connection with politics. The latest appointed judge certainly had never been a man who could be called an extreme partisan in any sense whatever. There only remained the Chief Justice, and he had been so long disconnected with politics that one might fairly imagine he had lost his interest in them.

Mr. W. BROOKES: No fear!

The HON. J. M. MACROSSAN said he thought it was very likely, seeing he had been twelve years out of politics. He could scarcely be said to take such an interest in politics that he could not be trusted to try an election petition. It was a very poor compliment to pay the judges. He was quite at one with the hon. member for North Brisbane, Mr. Brookes, in saying that he did not put such implicit trust in the judges as some people did. They must not trust them too far, but they might trust them that far, especially when the petitions were to be tried by the strict legal rules of evidence. As the Premier had said, he would not like to trust one man to try an election petition upon ordinary principles of equity and conscience without reference to points of law or legal evidence. If they passed the amendment the judges would have to try the case according to legal evidence. The only arguments he had heard from the Government side of the House had been in favour of not employing members of Parliament. In the same breath that those hon. members said they were willing to submit their case to the proposed tribunal, they said that members hitherto had not acted fairly. Now, he did not impute wrong motives to any member of the House, nor anyone outside the House, further than this: that in the atmosphere they breathed in the House and the positions they occupied in relation to each other, it was scarcely probable—he did not say it was not possible—that they would find twelve men who would be free from partisan bias and partiality in trying an election petition. Any man, without being aware of it, would be inclined to favour the side to which he belonged; and that would be the case with the ablest and most impartial man on either side of the House. For that reason, he thought it was not right to entrust members with such powers. If the result of their decision were simply to unseat a member, that would be almost nothing, because it was very likely that the unseated member would be able to get a seat in the same constituency or some other very shortly afterwards; but the consequences reached much farther. They affected men who were not candidates. A person might be punished to the extent of two years' imprisonment, and in view of such extreme penalties they should be very careful in the selection of the jury who would try the cases. That was the position occupied by him, and by most members on his side of the Committee. He believed many members on the other side were in the same position; but they were influenced by what might be called the threat of the leader of the

Government that he would withdraw the Bill if the amendment were carried. He could not blame the hon. member for that. Of course the hon. member could please himself on the subject, but he believed there were members on the other side who would vote against the amendment because they would sooner see the Bill carried than have it withdrawn. If the Premier would leave hon. members to vote as they pleased, without threatening to withdraw the Bill, he was inclined to think there would be a majority in favour of the amendment.

The PREMIER said he did not think the hon. member had thrown very much light upon the discussion by his last speech. The matter had been pretty well thrashed out. The hon. member had answered some arguments which had been advanced on the Government side of the House, but he did not seem exactly to appreciate the arguments. The hon. gentleman had said that the speeches made in favour of the Bill and against his amendment had really been in favour of the amendment. They had been against the present system, but it did not follow that because the present system was not good the only alternative was to have a single judge or two judges. That was the fallacy of the hon. gentleman's argument. He had also said that his (the Premier's) announcement, that if the amendment were carried the Bill would be withdrawn, was a threat. It was nothing of the kind. The Bill proposed to introduce a particular method of trying election petitions, and in moving the second reading he had pointed out that the Government were not prepared to accept the alternative the hon. gentleman desired. The hon. gentleman wished him to say nothing when a proposition was made which would entirely alter the whole scope of the Bill. The object of the amendment ought to have been effected by negativing the second reading, not by an amendment in committee. The Government would not be responsible for transferring the trial of elections to a single judge. It was not necessary to inquire who were the four gentlemen occupying the Supreme Court Bench in this colony. The past twenty or thirty years had given illustrations of gentlemen occupying seats on the Supreme Court Bench in the colonies to whom it would certainly not be safe to entrust the trial of election petitions. He had seen judges in direct conflict with the Executive of the day—political judges, in the worst sense of the term. He need not refer to any particular instance; they had seen it in many of the colonies. Those were things that might happen at any time. They heard extraordinary stories even nowadays of the vagaries of judges in different colonies, and those things might happen again. Having regard to the intimate relations which would necessarily exist between the different persons occupying eminent positions in the colony—members of Parliament and judges—he thought it was very undesirable that they should refer election petitions to the judges alone. It was said that members of the House were necessarily not unbiased. Perhaps they were not absolutely unbiased; but he would venture to assert that for all purposes of that kind, sitting in open court, under the direction of a judge whose instructions would be given openly and reported, if they were perversely to do injustice they would be acting in a very different way from what men placed in positions of responsibility of that kind ordinarily did. For his own part, he would be perfectly content to entrust himself in the hands of such a tribunal sooner than in the hands of any judge, whether a friend or an enemy of his. Indeed, he would not hesitate to entrust himself into the hands of an Elections and Qualifications Committee of whom the majority were adverse to him in politics, for he had every confidence in the fairness of members of Parliament when they were charged with the performance of a judicial function of that kind. It was monstrous to insult members of Parliament who had sat on those committees, as had been done. The whole matter arose out of one particular decision of the Elections Committee of the year before last, which was determined upon a pure question of law on which opinions differed. His own opinion was that the decision was right; others held that it was wrong. The decision was commented upon adversely in certain portions of the Press, and since that time some persons seemed to have satisfied themselves that the Elections and Qualifications Committee necessarily acted unjustly. That particular case was a very nice point of law indeed, and his opinion on it was by no means expressed for the first time on that occasion. If, out of seven men, four took one side and three the other, was that evidence or proof of corruption? He would venture to say that, out of seven judges, four might have given one decision and three another on a point of that kind. Would the four or the three have been corrupt, or either? The hon. member might just as well say that the minority was corrupt as the majority. But those arguments were entirely beside the question.

The HON. J. M. MACROSSAN: We do not charge them with corruption.

The PREMIER: Then the argument was beside the question, and the position taken up by the Opposition seemed to be—"If you do not give us what we consider a *sine quâ non*, you shall have nothing." Was that a fair position to take up? When a proposal was made which was admittedly an improvement on the existing system, hon. members ought to assist in making it as good as they could. With regard to assessors, he should be prepared, as he had already stated, to carefully consider any suggestion that might be made; but the principle of the Bill was, a judge and assessors. The rest were mere matters of detail.

Mr. NORTON said the Premier had pushed his arguments a little too far. No member on that side had accused the Elections Committee of corruption: they had simply accused them of being actuated by prejudice, as was shown by the fact that in nearly every case that had come before them four members were on one side and three on the other. No doubt that prejudice was involuntary, but it was that which divided them into two separate parties. As to their insulting members of Parliament by suggesting that they were corrupt, the hon. gentleman went a great deal too far. The insult came from the Premier in making such an assertion. Hon. members on the other side objected to judges because they were almost invariably old politicians who would necessarily retain their prejudices although they had long been removed from political life, and were not therefore fit to be entrusted with the settlement of those questions. But that was what he and his hon. friends had been saying with regard to members of the House. Who would be more likely to be influenced by political prejudices—judges who had long been out of politics, or members coming fresh from the House? It must be admitted that the members were far more likely to be prejudiced than the judges. He had listened with great pleasure to the speech of the hon. member, Mr. Brookes, who was certainly consistent. That hon. member showed perhaps less prejudice than anyone else who had spoken on the subject. Although on his own showing the other night he had suffered at the hands of the Elections Committee on more than one occasion, he wanted to continue

that system merely for the fun of the thing. He had listened to the discussion with much pleasure. Most of the arguments used on the other side—even those of the Premier himself—had been strongly in support of the point raised and the objection taken by the Opposition. As to the statement of the hon. gentleman, that because the Opposition could not get what they wanted the Government should have nothing at all, that was absurd. Not the slightest hint had been given that they would resist to that extent, and he was not aware that there was anything said that would justify the suspicion that hon. members on that side would resort to such an extreme measure.

Mr. LUMLEY HILL said the hon. member for Townsville had alluded to the hereditary Speaker who was always absolutely impartial. He (Mr. Lumley Hill) would say that, as far as his experience had taught him, their present Speaker had entirely divested himself of party feeling since he had occupied the chair of the House ; and it was quite possible, not only for the Speaker, but for members of a body of that kind to divest themselves of party feeling when they entered upon a business of that sort with clear heads and clean hands. He did not look upon all mortals—judges, members of Parliament, or Elections and Qualifications Committees—as thoroughly corrupt ; because if they admitted prejudice it was only another word for corruption. He did not care how the leader of the Opposition chose to split straws between the words "prejudice" and "corruption." Prejudice was corruption, although "corruption" was a stronger word. He believed in calling a spade a spade. With regard to the enthusiasm which the hon. member for Townsville displayed about the judges and their integrity, he could hardly understand it after the hon. member writing such a letter as he did to the Chief Justice, accusing him of malice, and which he took advantage of his position in the House to read and have published in *Hansard*. The hon. gentleman charged the Chief Justice with malice on account of certain remarks he made on a civil case. Because the Chief Justice made these remarks and comments in delivering his judgment the hon. gentleman charged him with malice and irrelevance. How could the hon. gentleman be contented, therefore, to entrust election petition trials to a man whom he believed to be guilty of malice in a matter of the kind which came before the court the other day ? The member for Townsville must excuse him for saying so, but he appeared to have something of the nature of the chameleon about him. His views were very accommodating, and changed to suit the particular circumstances of the time. He (Mr. Hill) had confidence in the judge, and in the combination of a judge and assessors, and if anyone could point out any method of improving the selection of those assessors he should be very happy to assist him. He did not himself for one moment suppose that the present Speaker, whom he looked upon as hereditary, would be guilty of choosing twelve or eight members from one side of the House. He imagined that he would choose the members sa evenly as possible, and if he did not he would soon cease to be the hereditary Speaker. He thought the new method was an improvement on the old, and that another very good point about it was that the evidence would be taken in open court, so that the public outside would have a fair opportunity of judging of what really did go on at elections, which they had no opportunity of knowing at the present time.

Mr. FOXTON said one statement had been made by the leader of the Opposition to which he felt justified in taking exception. The hon. gentleman indignantly denied that any member from the other side of the Committee had ever charged the Elections and Qualifications Committee with corruption. Now, that was not so. Distinct charges of the grossest possible corruption were levelled at the committee. He said that distinctly as a member of the committee.

Mr. NORTON : When ? That was when members were hot on the subject.

Mr. FOXTON : The hon. member said that was when members were hot on the subject; but that was no excuse for flinging charges of corruption broadcast whenever hot gentlemen might choose to fling them.

Mr. NORTON : I was referring to debates that had taken place this session.

The PREMIER : I was referring to previous debates.

Mr. NORTON : I think the feeling has worn itself out to a great extent.

Mr. FOXTON said he was glad to hear that hon. gentlemen opposite had thought fit to modify the views they had expressed on the occasions to which he referred. He was not referring to the debate of that night which had taken place on the Bill in committee, or on the second reading, because he was free to admit that the views of hon. gentlemen had been modified. He rose principally to refer to an admission made by the hon. member for Townsville, and which appeared to him to put that hon. member in the position of being an opponent of the amendment which he himself proposed. Now, the hon. gentleman admitted, with the Chief Secretary, that it would not be desirable to allow one man—whether judge or not—to sit and decide election cases when the evidence to be adduced was of such a character as was ordinarily brought before the Elections and Qualifications Committee—that was, evidence of a mixed character, and not strictly legal evidence, where justice and good conscience were allowed to come in. That was the position the hon. gentleman took up. He (Mr. Foxton) understood him to admit that the Chief Secretary's argument, that that was inadvisable, was perfectly sound. Well, if he admitted so much, it meant this : that he would confine the evidence to strictly legal evidence taken before the one judge, whom he proposed to constitute the tribunal. To put it shortly, that meant that the man with the longest purse would gain the seat. He (Mr. Foxton) did not know whether the hon. gentleman preferred that state of things to the decision of a tribunal as proposed by the Bill. He, for one, should not; but the argument certainly did mean that. From previous remarks made by the hon. member for Logan, he had anticipated the hon. gentleman's complaint, and he might state that it was on account of certain remarks that fell from him that he (Mr. Foxton) had been induced to speak. The cost of an election trial when the evidence was confined to strictly legal evidence would be enormous. He did not know whether the hon. member was aware of the cost of election trials in England at the present time, but they were simply fabulous, and certainly the cost would not be less here. The distance to be travelled by witnesses would be very great, and the expense of bringing down dozens of witnesses to give strictly legal evidence would also be enormous. In some cases it would be necessary to bring down forty or fifty witnesses a distance of 300 or 400 miles, and the cost of that would be only a small item in the expenses of the trial. It might be said, "Let the judge travel as near as possible to the place where the

election takes place and hold his court there"; but there, again, the man who had the longest purse would employ counsel, and counsel could not be got to travel those long distances without heavy fees being paid; so that the thing was about as broad as it was long. It might be said, on the other hand, "But the cost is limited to £200"; but that cut both ways. All that either side could recover from the other was £200, but that £200 was merely a drop in the bucket in comparison with what the whole cost of an election trial would be. Suppose a man petitioned against the sitting member. The sitting member, they might assume, was a rich man and able to bear very heavy expenses. A petitioner started knowing that he could not recover more than £200 against the sitting member if successful. But suppose the expenditure the sitting member was prepared to incur amounted to £2,000. It meant that the man who was able to produce the odd £1,800 was the man who would have the best chance before the tribunal—at all events the man whose case would be best put before it. Therefore he could see no other conclusion than that, if the hon. member admitted so much, he must admit that the man with the longest purse had the best chance. As to the assertions which had been made that it had always been possible to predict the result of an election petition before it was tried, he denied it. He thought the last case tried before the committee was an instance to the contrary. No doubt hon. members sitting on the opposite side would have said, if they meant all they did say, that the two members for Cook would have been unseated, and the two defeated candidates would have been seated; but such was not the case. If the committee had been as corrupt as it was stated to be, and it had been so easy to predict the result of an election trial, the prediction made would certainly have been as he had stated.

Mr. STEVENS said the hon. gentleman who had just sat down used as an argument against the Supreme Court that the expense would be too much for a poor man. He (Mr. Stevens) failed to see why it should be greater than under the proposed tribunal. The argument cut both ways; it was just as strong against him as in his favour. With regard to bringing witnesses from long distances, what was there to prevent them from providing that witnesses should be subpœnaed by order of the judge? Under the old system witnesses could be brought great distances and without costing either side one sixpence—they were subpœnaed by the Crown. If that was done in one case why should it not be done in another? If that was the only argument against trial by Supreme Court judges it could easily be got over. If it was in the interests of fair dealing, it would be a cheap thing for the colony to adopt the plan he had suggested. There was one point on which he should like to get some information. The 19th clause said that questions of law arising on the petition or at the trial should be determined by the judge, and questions of fact should be determined by the assessors, and if they voted equally the judge was to give the casting vote. But if a case arose in which the assessors decided the case on questions of fact, and the judge decided it upon a legal point, giving a different verdict, who was to decide the case then?

The PREMIER: How could such a case arise?

Mr. STEVENS said that seeing the judge had to decide upon questions of law and the assessors upon questions of fact, supposing the assessors said the facts were in favour of the petitioner, and the judge said all the legal points were against him, how would the case be settled then?

The PREMIER said the hon. member did not appear to know the nature of the question he had asked. The facts and the law could not conflict. The hon. member might as well speak of a mathematical fact conflicting with a geological fact. In all cases tried in courts the judge decided questions of law and the jury questions of fact. The jury found the facts, and the judge told them what the law was. He never till now heard of anyone suggesting, as long as British jurisprudence or any other jurisprudence had been in existence, that questions of law and fact were not different.

Mr. HAMILTON said it was stated by the Premier that it would be inadvisable to allow a judge to decide such cases, because he would be liable to be influenced by association with members of Parliament; but he would allow them to be decided by members of Parliament, no matter how strong their political bias might be. The member for Carnarvon said that the cost of taking strictly legal evidence would be enormous. Probably it would, because when a committee would take any kind of evidence, persons at a distance would give evidence which they would not dare to give if they thought there was any danger of being subjected to a severe cross-examination. However, that argument did not hold good, because the judge could be allowed to take other evidence. The member for Logan remarked truly that the members who had taken part in the discussion had proved their partiality; and though the Premier stated that only in one case did the decision of the Elections Committee cause the public to consider that there was any great bias, that one was a large proportion, seeing that only three or four cases were tried. As was stated by the hon. member for Rockhampton, even in the most trivial decisions it used to be four to three on every occasion. No one held the opinion that the committee was corrupt, but simply that it had a strong bias. The bias on one side was perhaps as great as that on the other. The decisions of election committees composed of members of Parliament had been ridiculed throughout the whole of the British-speaking world. The screaming election farce portrayed by Charles Dickens, also in Warren's "Ten Thousand a Year," besides many other examples by the best writers in the language, went to show that it was almost impossible for such a committee to come to a proper decision. As the hon. member for Townsville stated, the Elections Committee had been held up to opprobrium by persons outside. That was denied by the Premier, but did not hon. members recollect that the Government attacked the leading paper of the colony on account of the statements contained in it with regard to one of the decisions of that committee? The question of privilege was put before a jury, and it was decided that the proprietors of the journal were justified in publishing the statements to which exception had been taken. They could not expect to have a fair and impartial decision from a tribunal every member of which might have a direct personal interest in the result of the decision. The decision of the committee might result in the turning out of the Government of which they might be supporters, or in putting in the side they believed in. Look at the bias that existed in the discussion of that particular clause! Every member who happened to speak on that side of the Committee approved of it, and every member who spoke on the other side disapproved of it. He believed that every member on his side conscientiously expressed his opinion when he disapproved of it, just as he believed that every member on the Government side spoke according to his conscience when he approved of it. That showed

how the mere position of members in the House sensibly biased their feelings. He thought the objections that had been urged against the judges deciding applied tenfold to members of the House. If it were considered that judges were liable to be biased because they associated with members, and had been engaged in politics, was it not much more likely that they would have unfair decisions when those decisions were come to by those members themselves—by members who had at present a direct interest in politics, which the judges would not have—a direct interest in the particular case as it affected their political party? They must recollect also that a judge was generally selected for that position for his impartiality, and for his high character and his skill in analysing evidence. Look at the last appointment—that of Justice Mein, late leader of the Government party in the other House. He felt perfectly confident that there was not a single member in that Committee, no matter what side he sat upon, who would not be perfectly satisfied to allow that gentleman to decide his case, simply on account of his high character and impartiality and skill in analysing evidence, in spite of the fact of his having been one of the strongest supporters of the present Government. There was an instance in proof, and it must be recollected that if members of the Committee were insulted because it might be said that their decisions were impartial, was it not an insult to the judges to say that they might be biased? The objection to the assessors was not that they were corrupt, but that they were not so well qualified as judges to decide, and also that they were liable to decide unfairly by being insensibly biased, because their decision personally affected themselves as well as their party.

The HON. J. M. MACROSSAN said he would like the Premier to give a better answer to the point raised by the hon. member for Logan. That hon. gentleman asked what would be the result if the assessors, who were to be judges of fact, conflicted with the judge, who was to decide upon points of law. They were to be judges of two distinct things. Would the hon. gentleman say what points of law the judge would have to decide at all? The 23rd section said:—

"Upon the trial of an election petition or reference the tribunal shall be guided by the real justice and good conscience of the case, without regard to legal forms and solemnities, and shall direct itself by the best evidence it can procure, or which is laid before it, whether the same is such evidence as the law would require or admit in other cases or not."

Where was the judge to come in as a judge of law there? He would be judging law of which he had no cognisance whatever; the case would not be tried according to the rules of legal evidence. It appeared to him that the only position that the judge could occupy in that tribunal would be that of a chairman to give a casting vote when the assessors were equally divided. He did not see any other work for a judge in that particular tribunal, but if the hon. gentleman could show them points of law likely to arise for a judge to decide, he would be able to throw some light upon the question asked by the hon. member for Logan.

The PREMIER said he could not at the moment give any very exhaustive list of the points of law that might arise. Such points might arise under almost every clause of the Elections Act. In the last cases tried several points of law arose. The first petition that was determined was decided entirely upon a point of law—namely, as to what was the effect of certain ballot-papers having marks upon them by which they might be identified? There was no dispute of fact at all. That was a point that would be determined by the judge under the Bill. All the assessors would have to determine was whether the ballot-papers were actually used at the election. Another point of law might have arisen then. Supposing those ballot-papers were marked with the consent of the petitioner, would that make any difference? or supposing they were marked with the consent of the sitting member, would that make any difference? Those were points of law quite distinct from questions of fact. In another case the question was: What was the effect of having a polling place outside the electorate? That was a point of law, and would be a question for the judge. The question for the assessors to decide would be—Was the polling place outside the electorate? which would be a question of fact. In the third case that was tried, certain facts were given about misconduct at certain polling places. It might be a question of law, if these things were brought about at the instigation of the sitting member, how that would affect his seat. He gave those illustrations from the last cases that came before the Elections Committee. They could scarcely take up any clause of the Elections Act upon which a point of law might not be raised. Distinctions between points of law and fact were so easily understood and so simple that he could not understand the hon. gentleman suggesting that they could be confused.

Question—That the words proposed to be omitted stand part of the clause—put, and the Committee divided:—

AYES, 29.

Sir S. W. Griffith, Messrs. Miles, Dickson, Dutton, Moreton, Sheridan, Foxton, Foote, Philp, Brown, Grimes, Lumley Hill, McMaster, S. W. Brooks, Kates, Wakefield, Annear, Buckland, Campbell, White, Jordan, Isambert, Bulcock, Aland, W. Brookes, Bailey, Wallace, Midgley, and Horwitz.

NOES, 15.

Messrs. Norton, Macrossan, Chubb, Stevens, Hamilton, Black, Nelson, Lalor, Adams, Pattison, Govett, Lissner, Palmer, Ferguson, and Murphy.

Question resolved in the affirmative.

Clause, as read, put and passed.

Clause 12—"Chief Justice to notify name of elections judge to Speaker annually"—put and passed.

On clause 13, as follows:—

"For the purpose of choosing assessors to constitute the elections tribunal at the trial of an election petition or reference, the following provisions shall have effect:—

(1.) In the first session of every Assembly, within seven days after the election of a Speaker, and in every subsequent session within seven days after the commencement thereof, or in either case at any later period with the leave of the Assembly, the Speaker shall, by warrant under his hand, nominate twelve members of the Assembly, against whose return no petition is then pending, and none of whom is a party to any petition complaining of any election or return, to form the panel of assessors for the trial of election petitions for that session.

(2.) The warrant shall be laid on the table of the Assembly, and, if not disapproved by the Assembly in the course of the next three days on which the Assembly meets for the despatch of business, shall take effect as an appointment of such panel of assessors.

(3.) Any member who is or becomes a party to an election petition, or respecting whose return, qualification, or disqualification, an inquiry is pending, shall be disqualified to be or remain an assessor.

(4.) If the Assembly disapproves of any such nomination, the Speaker shall, on or before the third day on which the Assembly meets after such disapproval, or at a later period with the leave of the Assembly, lay upon the table of the Assembly a new warrant nominating twelve members qualified as aforesaid, and so from time to time until twelve members have been nominated by a warrant not disapproved of by the Assembly.

(5.) The disapproval of a warrant may be either general in respect of the constitution of the whole panel or special in respect of any particular member named in the warrant, and the Speaker may, if he thinks fit, name in the second or any subsequent warrant any of the members named in any former warrant whose nomination has not been so specially disapproved of.

(6.) After the appointment of the panel every member appointed shall continue to be a member thereof until the end of that session, unless he sooner ceases to be a member of the Assembly, or becomes disqualified to be an assessor, or is disabled by continued illness from serving as an assessor, or until the panel is dissolved by resolution of the Assembly (which resolution the Assembly is hereby empowered to pass), or until he is removed by resolution of the Assembly, or until he resigns his appointment, which he may do by letter to the Speaker, but which resignation shall not take effect until the appointment of another member in his place.

(7.) When the panel is dissolved or a member is removed by resolution of the Assembly, the Speaker shall, by warrant under his hand, laid upon the table of the Assembly on or before the third day on which the Assembly meets after the dissolution of the committee, or at a later period, with the leave of the Assembly, nominate a new panel of assessors, or a new assessor, as the case may require.

(8.) When a vacancy occurs in the panel of assessors by death, resignation, disqualification, or otherwise, the Speaker shall, in like manner, on or before the third day after notification of the vacancy to him, or at a later period with the leave of the Assembly, nominate a member to be an assessor in the place of the member whose office is so vacated.

(9.) Any such warrant as by the last two paragraphs of this clause is authorised shall be subject to the disapproval of the Assembly in like manner as is hereinbefore provided in the case of the nomination of the first panel of assessors.

(10.) Upon any nomination of a new panel of assessors the Speaker may, if he thinks fit, nominate any of the members of the former panel who are then not disqualified to serve thereon."

The HON. J. M. MACROSSAN said they had now got to that part of the Bill which decided the mode of selecting the assessors. When the Bill was before them for its second reading he gave a suggestion as to the mode of selecting the assessors which he thought, and which several members on his side of the Committee thought, would lead to some greater degree of confidence in the assessors than the one proposed by the Bill. Since then he had been looking the matter over, and thought if the suggestion he made then was modified it would meet with the approval of probably a good many members on the opposite side and perhaps that of the Premier himself. It would, he thought, certainly meet with the approval of a great many on his own side. He had suggested that the whole House should be the panel from which the assessors should be chosen, but the hon. member for Carnarvon had pointed out that, one side of the House having a good majority over the other, the candidate or member who belonged to the side that had the majority could exhaust the panel on the other side. That would, however, depend upon the number of challenges allowed. He thought, instead of taking the whole House right through, and allowing challenges, that if each side was allowed to select twelve, with the right of challenge to a limited number by either side, they would then arrive at a degree of fairness that would give greater confidence to both parties. Each party would then be selecting men in whom they had most confidence, and at the same time the other party would have the right to object to any whom they considered were too strong partisans to be allowed to act as assessors. If the Premier adopted a system like that the clause would have to be re-cast.

The PREMIER: I don't quite understand what you propose.

The HON. J. M. MACROSSAN said the present proposition was that the Speaker should nominate a certain number, twelve, and from the twelve six had to be drawn by the parties themselves. He suggested that instead of the Speaker nominating twelve, each party should be allowed to select six or twelve—he preferred twelve, because he believed it would be found a better number than six—and allow a certain number of challenges to either side. Supposing A had the power of selecting twelve, and that he began his selection, B objected, say, to the first one, and to the second and third, and up to the ninth, he must then allow the three last. Did the hon. gentleman follow him now?

The PREMIER: I follow you.

The HON. J. M. MACROSSAN said he thought a system of that kind would give, as he said, greater confidence; because A having the twelve to select from the whole House, and B having the right to reject all but three required for assessors, that should give A a degree of confidence in his own assessors, and B, of course, would have the same right. He thought by that system a better mean could be arrived at, and one that would probably satisfy all and give greater confidence not only to members of the House, but to the general public, who, he believed, were watching that Bill with great interest.

The PREMIER said there was one expression that the hon. member used which was a condemnation of his scheme—namely, that each man would have greater confidence in his own assessors. They would be a purely partisan tribunal, consisting of six assessors—three nominated by one party and three by the other; and what would they be expected to do? Each three would be expected to maintain the view of the party by whom they were nominated. He did not see what was the use of a scheme of that sort. The object of the assessors being nominated by an impartial person, as the Speaker was supposed to be, and as he believed for that purpose the Speaker always was, was that the particular litigants should have nothing to do with the nomination. It was, as nearly as possible, an adaptation of the system they had of striking a jury—only that the selection of the jury panel was determined by lot. It would not be convenient to determine the choice by lot in so small a number as the members of the House, and he thought the Speaker might very well be trusted for that purpose. He did not think there had ever been any complaint made that the Elections and Qualifications Committee had been improperly constituted by the Speaker. He did not remember any instance. As a rule the Speaker selected the most impartial men. It had been suggested in the course of the debate that it should be provided in the Bill that a certain number of assessors should be taken from each side of the House. But that was impossible. The law did not know any sides in the House. They were all equal; and sides might vary from time to time. Suppose, as in Victoria, there was a coalition Government, where would be the sides?

The HON. J. M. MACROSSAN: Still there are two sides there.

The PREMIER: There were sides, of course, but there was a much bitterer feeling there between the members on one side than there was in many cases between members on the

Government side of the House and those of the Opposition. As a general rule, his opinion was that the assessors ought to be selected from what were understood to be the least strongly biased members on both sides of the House and in equal number. He thought the principle should be laid down that the Speaker should not take a member of the Government or the leader or any prominent member of the Opposition. Although that was the custom in Queensland at one time, he thought it had now fallen into desuetude. Nor should the whip of either party, nor anyone who was what might be called a rabid partisan, if there were any such, be chosen. To allow parties petitioning to nominate their own assessors would be to bring about what sometimes happened in arbitration, when each arbitrator considered himself to be the advocate of his nominator. He did not think it would conduce to confidence if the assessors were nominated by the parties.

The HON. J. M. MACROSSAN said the hon. gentleman had stated that the expression that each party would be satisfied with his own selection condemned the scheme. The same argument could be applied to the jury system. When a man was being tried he objected to every juror whom he thought was biased, or had given any expression of bias or prejudice against him that he was aware of. By that means he selected the men in whom he had the most confidence. They might not perhaps be the best, but they were the best he could get, and he had more confidence in them than in the men whom he had rejected. The same rule applied in that case, the only difference being that the jurors were not selected originally by the parties to the suit. But then the sheriff, who selected the jurors in the first instance, selected a very large number—forty-eight, he believed.

The PREMIER: Four times as many as are required; but then those forty-eight are selected by an impartial authority.

The HON. J. M. MACROSSAN said it might be supposed that it was an impartial authority, but the sheriff was not always impartial. The hon. gentleman knew how it could be done. He knew very well that the sheriff, who had the selection of the number of jurors from which the jury was afterwards drawn, could act in such a way that it would be impossible to get twelve men who were not biased or prejudiced.

The PREMIER: I never heard such a suggestion before.

The HON. J. M. MACROSSAN: Never heard of that in Ireland?

The PREMIER: Oh! that is a different country—under a different law.

The HON. J. M. MACROSSAN: What was the difference in the law? There was no difference whatever. There the sheriff sometimes acted under strong party bias; but no such inducements or temptations as those to which he was exposed existed in this colony or any other colony. If they did exist, the same thing could happen here, or anywhere else, under the jury system. He maintained, as he said at the start, that that was a better system than the one proposed in the Bill. Members of the House generally would not have the same confidence in the members selected by the Speaker from whom the assessors would afterwards be drawn by the parties to the contest, as they would have in the scheme that he proposed, in which the Speaker was left out altogether; and he believed it was better for the Speaker himself that he should be left out.

Mr. STEVENS said he would sooner see an amendment made in another direction than that indicated by the hon. member for Townsville. He thought that one thing against the proposition was the fact that by choosing assessors from members sitting in the House by challenging, a person would select not only those who were not adverse to him, but who also possessed strong party feelings. He would sooner see the clause provide that the Speaker should choose those members from either side. If the Committee thought it necessary that prominent members should not be chosen, it could be stipulated that Ministers and ex-Ministers and the leader of the Opposition should not be chosen. He thought that would relieve the Speaker of a good deal of anxiety and responsibility. He did not wish it to be inferred from that that he laid the slightest charge of partiality at the door of the present Speaker. His experience of that hon. gentleman since he had been Speaker, was that it would be impossible for any Speaker to be more impartial than he had been. He might say that the Opposition had never had any reason to complain of any decision he had given, but it was possible they might have a Speaker who was not so impartial. From his own experience in the colonies, he could point to one Speaker who could fairly be accused of being partial, and they might have another of that class; so that it was better to provide against it, which might be done in the way he had suggested.

Mr. MIDGLEY said he would vote for the clause to be passed introducing a change in the present mode of trying election petitions, because he believed it to be an improvement on the old state of things. He thought the Committee had made a mistake in confining itself to the House for the choice of a jury, and he believed the time was not far distant when that fact would be recognised just as completely as they had recognised the need of some change in the old tribunal. Every possibility of suspicion of political choice or favouritism should be carefully guarded against. He would suggest that, instead of the Speaker giving his warrant every session for the election of a certain number of gentlemen to act on the committee, the names should be chosen by lot by the judges themselves, excluding from the ballot-box the names of Ministers of the Crown, and ex-Ministers. That, like the present, would only be a temporary expedient. He looked to the time when such matters would be decided entirely outside the House.

Mr. W. BROOKES said there was a great difference between the challenging of a jury in a court of justice and that which would take place if the amendment were accepted. In a court of justice the object of the counsel for the prisoner was to keep on challenging till he had a jury that knew nothing whatever of the prisoner. Now, according to the scheme proposed in the amendment, the party would go on challenging till there were three assessors who knew everything about him. The risk under the clause was not so great as it appeared at first sight. The probable course the Speaker would take would be to select from each side of the House persons known not to care much about things one way or the other—like himself (Mr. Brookes). He thought that would secure sufficient impartiality in the tribunal for all the purposes of the Bill.

The HON. J. M. MACROSSAN said the hon. member did not quite understand his proposal. It was not the man who selected the twelve who would have the right of saying which of them should be on the jury. A would select twelve, and B twelve; then A would object to nine of B's nominees, and B to nine of A's. That would be a fair way of arriving at a conclusion. The hon. member said they would arrive at sufficient impartiality by the system proposed in the Bill, but he wanted to arrive at much more than "sufficient impartiality." He

did not think it was possible for any man in the House to select twelve men from either side who would be hot partisans. They knew one another very well, and if an incoming candidate did not know the members he would soon be put up to it. The parties on each side would strike out whatever partisans were nominated, and each would get what he believed to be the most fair and impartial men out of the other twelve. That, he thought, would be just; and it would relieve the Speaker of all trouble, and from the invidious position he was placed in by the Bill, and under the old system.

Mr. LUMLEY HILL said he denied that twelve men could not be got on either side who were staunch supporters of one party or the other. The public outside knew very well that there were twelve, if not more, staunch supporters of the present Government outside their own benches. The amendment of the hon. member for Townsville was still hanging on to the old business of leaving all to the judge. When A and B had each challenged nine out of the other twelve, the probability was that the three stupidest men on each side would be left—the three most devoid of intelligence—as neither would like to have an able man amongst his opponents. The matter, therefore, would be more nearly resting in the hands of the judge than if there were three tolerably able men on each side. He disagreed with the amendment, and the scheme proposed in the Bill was the best he had heard suggested. He intended to support it.

Mr. FOXTON said there was one point which he thought had escaped the hon. member for Townsville when he proposed that the panel should be twenty-four—twelve to be chosen by each party to the petition. Clause 9, which they had passed, said:—

"The sitting member or any person who voted or who had a right to vote at the election to which the petition relates, or any person complained against in the petition, may, within four weeks after presentation thereof, by notice in writing to the registrar, be admitted as a party to support or to oppose the same or to defend the return of the sitting member, as the case may be; and every person so admitted shall be deemed to be a party to the petition."

Now, suppose half the electorate wanted to become parties to the petition, who was going to choose the twelve?

Mr. NORTON: That is provided for.

Mr. FOXTON said it was provided for in the clause, but not in the amendment of the hon. member for Townsville. The hon. member's intention apparently was that the sitting member should choose his twelve; but suppose other people wanted to become parties, and they could not agree about the twelve whom they would select. The hon. member said his proposal would make the tribunal more like an ordinary jury, but that was not the case. The clause as it stood bore a far nearer analogy to a jury than the scheme proposed by the hon. member. If the Speaker were to nominate twelve from each side, making a total panel of twenty-four, the analogy to a jury, according to the present law, would be complete. There would be a panel of twenty-four, from which a jury of six would be struck—exactly the proportion which at present existed in courts of law. The panel would be chosen by the Speaker, who would be presumably quite as independent and impartial as the sheriff. From that each party would be entitled to strike out nine; and the analogy to a jury would then be complete. But the scheme of the hon. member for Townsville would be very much like the two parties to a suit, each choosing one-half the jury panel. Such a thing would not be tolerated in any civilised country, and there was no reason why they should do here what would not be tolerated elsewhere.

Mr. HAMILTON said it was clear that the Bill ought not to be allowed to pass unless it was distinctly specified that the Speaker should nominate six assessors from each side of the House. If the Speaker was allowed to appoint seven from one side and five from the other, when three names were struck off from each side the result would be four to two; they all knew what that meant. He agreed with hon. members that their present Speaker was very impartial as a Speaker. At the same time, all Speakers were the nominees of the Government for the time being; and if members were liable to be biased it should be remembered that the Speaker himself was simply a member and just as liable to be biased. That was shown in all nominations to the Elections and Qualifications Committee. That body generally consisted of four strong Government supporters on one side, and three lukewarm members of the Opposition on the other. If hon. members looked back they would see that that had always been the case. The proposition of the hon. member for Townsville seemed to be to introduce something like the present system of trial by jury, by which litigants virtually nominated their own juries by having the privilege of objecting to a certain number; and by adopting it the chances of having a partisan body would be greatly diminished. Indeed, it would result in the three members on each side who were the least partisans being selected for the work. They might be considered an impartial body, and the trials might be safely left in their hands.

Mr. KATES said that anyone listening to the last speaker would come to the conclusion that the House was composed of rogues and men quite devoid of principle. He had a better opinion of hon. members on both sides than that. There was no doubt the nomination should be left to the Speaker, and they could not do better than leave the clause as it was. The proposed new tribunal was a great improvement on the existing one, and they should be satisfied with it.

Mr. SHERIDAN asked the hon. member for Townsville what would happen under his proposition in the contingency of there not being twelve members on one side of the House to select from?

The HON. J. M. MACROSSAN said the answer to that was very simple; it would be impossible to select twelve members from that side. He would take the opportunity of saying that he had simply thrown out a suggestion, not proposed an amendment. The acceptance of an amendment to that effect would involve the re-casting of several parts of the Bill, and something else besides. The suggestion made by the hon. member for Logan would be a very good one, but the Chief Secretary had said that it could not be accepted.

The PREMIER: I do not see how it could be done.

The HON. J. M. MACROSSAN said that all he and the other members on that side desired was a jury which would inspire confidence.

Mr. PALMER said that if the assessors were nominated by the Speaker, who was himself nominated by the majority, it would be a lop-sided body. He would sooner take his chance with the first seven men he met in Queen street than with a party in the House composed of seven members on one side and four on the other.

The PREMIER: You must have been associating with very bad company since you came here.

Mr. PALMER said that even the Premier could not shake himself free from partisanship, and it was evident from the hon. gentleman's remarks that in whatever way the committee was framed it would be a committee of the majority. What guarantee had they that the Speaker would not choose seven members from the majority and five from the minority? He was surprised that the so-called Liberal party should stick to privileges which the House of Commons had long ago thrown aside as useless. Twenty-five or thirty years ago some very scandalous proceedings were carried out, under the cloak of select committees, on election petitions.

Mr. BULCOCK: That was never the case here.

Mr. PALMER said it would not do to inquire too closely into some of the cases that had taken place even in Queensland. The hon. member for North Brisbane (Mr. W. Brookes) admitted that he had been very hardly used by the Elections and Qualifications Committee on more than one occasion.

The PREMIER: That was a long time ago.

Mr. PALMER said human nature was just the same then as it was now, and hon. members had the same party feeling then as they had now. Of course, he did not see how they were going to get out of the difficulty if the suggestion was carried out, but if twelve were selected from each side they might get an impartial committee.

Mr. FOXTON said hon. gentlemen appeared to assume that the Speaker was desirous of acting in an improper way. Suppose such a Speaker did sit in the chair and was in collusion with one or two members in the House, and such a proposition as that suggested by the hon. member for Logan were agreed to—that six should be taken from one side and six from the other—it would be very simple for two members who were elected to sit on one side of the House to deliberately go and sit on the other side in collusion with the Speaker, in order that they might be put on the committee. That was a very proper argument to use in reply to the proposition of the hon. member for Burke. He implied that the Speaker would not be impartial, and if he went so far as that, he (Mr. Foxton) was perfectly justified in putting such a case as that which he suggested. The hon. member also asked what guarantee was there that the panel would be chosen six from each side by the Speaker. There was no guarantee; but there was no guarantee at present that the Speaker would choose four from one side and three from the other. But that had been the practice, and no Speaker, so far as he knew, had ever departed from that practice. Hon. gentlemen laughed, as though the Speaker were able to divide the seventh man and take three and a-half from each side of the House to make a fair division. There was nothing now to prevent the Speaker taking the whole from one side, but it was never done.

Mr. STEVENS: He always takes four from one side.

Mr. FOXTON said if the hon. gentleman could show him how the Speaker could do otherwise he should be obliged. He thought the feeling of the majority of the Committee was that six should be taken from each side of the House as nearly and fairly as the Speaker could take them. He believed that was what was understood to be the principle which was to underlie the clause, but for the reasons pointed out it was impossible to put it in black and white. But any Speaker who did not do as he had pointed out would not, he felt confident, hold his position very long.

Mr. MIDGLEY said the more he listened to the debate the more confident he was that he made a very wise suggestion, though he was surrounded by grave and reverend legislators. Why should they throw the responsibility on the Speaker at all? Why should they unduly leave the matter in the Speaker's hands? Why not decide the matter by ballot—leave it purely to chance to decide the matter? He would point out that there might come a time when the Speaker would have a direct personal interest in the result of a petition, and he might consider himself quite justified in appointing all the members from one side of the House. He might consider, taking the line of argument of the junior member for North Brisbane, that all the time he was doing what was best for the country by keeping the party in office who appointed him. He thought they ought not to leave the matter in the hands of the Speaker, but take it out of his hands entirely. He was sorry at the impatience with which anything like a suggestion was received. If an "i" was dotted at the bottom instead of at the top perhaps there would be no occasion to call attention to such a circumstance; but he thought that in important matters of that kind hon. members should express themselves thoroughly, and if he had a suggestion to make he should make it, and if his ideas were mistaken ones he should be prepared to take the consequences. He thought they were beating the air and fighting a long time about a thing which might be settled in a very short time. His proposal was that they should leave the matter in the hands of the judge who had to try the case, and let him draw lots as to what members should constitute the committee, leaving out from the list the names of the members of the Government and the leading members of the Opposition.

Mr. NORTON said he certainly thought the hon. member who had just sat down deserved that some notice should be taken of the proposition which he had made some time ago, and he was certainly surprised that no notice had been taken of it. He was quite sure that in making the suggestion the hon. member was bringing forward what he considered was a fair solution of the difficulty. He could not support the hon. member himself in his proposal, because it would be inconsistent to do so after having argued that prejudice existed to a certain extent; but if the hon. member's proposal was adopted the side of the majority would probably have the larger representation. If the hon. member's suggestion were adopted, eight or nine might be selected from one side and three or four from the other side, so that that would not put them in a better position. Holding the views he did, he thought it would be almost as fair if the names of the disputed candidates were put into a hat and one drawn out. That would be a very quick mode of settling the difference, and very economical. He thought that any hon. member of the Committee deserved great consideration when he made a suggestion in perfect good faith. It appeared to him that the chief difficulty had resolved itself into this: that members on both sides of the House had a sort of idea that in choosing twelve members the Speaker should be guided as he was supposed to have been guided hitherto in choosing the seventh. It had been a sort of understanding that he should choose four from the majority and three from the other side. So far as he could gather from the remarks that had fallen from hon. gentlemen, it appeared that the feeling was that in selecting the names the Speaker should select six from each side. He thought that was the idea which had been carried throughout the whole discussion. Of course, the difficulty was to put that in black and white, because possibly if that was done it made a distinct party question of the whole thing. He believed most hon. members would

be satisfied if there was something in the Bill to indicate that the Speaker was to act with moderate fairness and consult the feelings of both sides, and he believed that could be done by inserting a subsection in the clause, which should run as follows: "The Speaker shall, after consultation with the leader of the Government and the leader of the Opposition, by warrant under his hand, nominate twelve members of the Assembly," &c. Of course, that implied that the wishes of both sides of the House would have his consideration. It did not bind him absolutely to make a selection from each side, but was an indication of the wish that both sides should be consulted.

The PREMIER said it was of no use putting into an Act of Parliament things to which they could give no effect. If the suggestion was a proper thing to be affirmed, it should be affirmed by a resolution. With regard to the constitution of election committees, as far as he knew the Speaker had never consulted with either side. He knew he himself had never been consulted, and never knew till he saw the names in "Votes and Proceedings" who were to be members of Elections and Qualifications Committees. And he doubted whether it was desirable for the Speaker to consult the leaders, unless in cases where there was a large number of new members. The Speaker was a member occupying an impartial position, and he would preserve his position most impartially by not consulting anyone. Besides, they could not refer to "sides of the House" in an Act of Parliament. It might be done in countries where the different parties always occupied the same part of the House. For instance, in the Italian Parliament, where the "Right" always sat on the right whether in office or not; but in Queensland it was the practice for the Government party to sit on the right of the Speaker, and the Opposition on the other side. The principle of government by parties was one of the unwritten parts of the Constitution, and he did not see how they could insert a provision relating to the two sides of the House. The hon. gentleman had suggested that the assessors might be chosen by ballot, but that might result in a large majority being chosen from one side of the House. If there was a large number of members from whom to choose the result might be pretty even, but when there was only a small number, the chance of getting them what was considered evenly divided would be very much less. He thought the more the proposal contained in the clause was considered the more it would be seen that it was the fairest mode to adopt.

Mr. HAMILTON said it was all very well to say that the Speaker was impartial. It was not in the nature of things to expect a gentleman, appointed on account of his great services to the side who appointed him, to be impartial, and great consideration should be attached to the proposal made by the hon. member for Fassifern, that some other steps should be taken to appoint assessors. They knew that instances might arise in which the Speaker would have as great an interest in the result of an election petition as any other member. He might know that the decision in three or four cases might oust the House of which he was Speaker, and the consequence would be that perhaps he would lose £1,000 a year for five years, so that the loss of £5,000 would be one of the penalties inflicted on him if the decisions happened to be recorded in a particular way. There was no use closing their eyes to the fact that they were all partisans. They had a strong interest in every election, and as it was recognised that no person should be allowed to sit on any jury who had a strong interest in the case, he did not see why they should be allowed to do so in the present case. He noticed that the individuals who supported the proposition contained in the clause were those who appointed the Speaker, and who had perfect confidence in what he would do; and that those who objected to it were those who had nothing to do with his appointment. The hon. member for Carnarvon said that in all cases the Speaker had appointed a majority from the side of the House which had appointed him, and that he was not likely to depart from the practice.

Mr. FOXTON said the hon. member had misunderstood him. He said that so long as the present system was continued the Speaker would not depart from the usual practice. He did not mean to say that the Speaker would not depart from that practice under the present Bill, should it become law. He said that under the present system he would continue to make the number from each side as even as possible—namely, four and three.

Mr. HAMILTON said he must apologise for misinterpreting the hon. member. He would suggest that in choosing a jury the whole House should be empanelled, and that each side should have the right to challenge. He could see no objection to that.

The HON. J. M. MACROSSAN said it seemed that no matter what suggestion came from his side it was to be treated in the same way as the suggestions they had made when considering the Land Bill, which had caused so much dissatisfaction all over the country. To the suggestion of the leader of the Opposition, the Premier had replied that they could not make a distinction between the two sides of the House in an Act of Parliament. Why not? Why should they be guided all their lives by suppositions? Was it not a reality that there were two sides in every House of Parliament? And why not deal with realities as they found them, and make precedents for themselves in such cases? If nothing of the sort had been put into an Act of Parliament before, that should not prevent the Committee from doing it now, if by doing so they could make things work more smoothly. Other suggestions had been made on the Opposition side which could be inserted without changing the principle of the Bill, seeing that they had passed the 11th clause. They were told two years ago that any suggestion from the Opposition side was looked upon with suspicion, and he supposed their suggestions were looked upon with suspicion now. Did the hon. gentleman at the head of the Government think that they wanted to spoil the Bill? They wanted to improve it in the same way as they wanted to improve the work he mentioned just now, which the hon. gentleman himself had since found it necessary to amend.

Mr. JORDAN said he thought hon. gentlemen opposite could hardly complain that justice had not been done them, or say that suggestions from them would not be listened to by the Premier. That was not true. The hon. member for Townsville had proposed to change the whole principle of the Bill, and alter the whole scope of it. The principle was discussed and adopted on the second reading, so that the present discussion seemed to be altogether irregular. At the second reading hon. gentlemen expressed their approval of the Bill; but now the hon. member for Townsville and those behind him were trying to alter its principle entirely. Hon. gentlemen on the Government side had listened patiently to all arguments used by hon. gentlemen on the other side. One hon. member said that the Speaker must necessarily be a strong partisan. He (Mr. Jordan) denied that. Let them look at the history of the colony. Their first speaker,

Mr. Elliott, was in the chair for ten years, from the election of the first Parliament in 1860. The hon. member for Cook said the Speaker was always a strong partisan, and was generally put in the chair as a reward for some special service to his party. How then was it that Mr. Walsh was in the chair for years? He was the nominee of the Liberal party; he had been a strong partisan, and a member of a Government on the opposite side for years, yet his (Mr. Jordan's) side nominated him as Speaker, and he sat as such for many years.

The HON. J. M. MACROSSAN: Tell us the reason why?

Mr. JORDAN asked who could say, after the experience they had had of the impartiality of the present Speaker, that he was a strong partisan? They knew he was not. He believed that his decisions had been almost always more favourable to the Opposition, if, indeed, there had been any distinction. He did not think there had. There had been several propositions before them. There was the proposition of the hon. member for Townsville, a very distinct one. Then there was that of the hon. member for Logan, and another by the hon. member for Fassifern—that the whole thing should be determined by chance—that the names should be put in a hat, the hat shaken, and the names drawn out. He had heard of a religious denomination who determined everything that they considered of grave importance by lot, and they quoted Scripture in support of that singular practice. They determined even marriages by lot, in the belief that they were leaving all things at the disposal of the Lord; but he did not think it would be the Lord in the case of disputed elections. He did not think it could be reduced to a question of law. As there would be an even number of names required, the Speaker could select an equal number from each side. He would not choose a fairer or better tribunal than gentlemen he had known personally in the House for years, he did not care upon which side they sat. He would place his whole life at the disposal of a jury composed of members of either side.

Mr. MIDGLEY: So would I; but not my seat.

Mr. JORDAN said he objected to any remarks being made about the necessary partiality of the present tribunal. He had been in the colony for many years—about thirty—and had noticed a good many committees nominated by the Speakers during that time; and he had been struck with the fairness and impartiality manifested. He had seen that the men nominated by the Speaker had been gentlemanly, moderate, sensible, and honourable men, and respected by both sides of the House. There were many members of that Committee who were highly respected by both sides, and they were generally the men chosen by the Speaker, he observed, as members of the Elections and Qualifications Committee—not strong partisans. He thought hon. members had perhaps overlooked the careful safeguards, as he considered them, that were contained in the Bill for the choice of assessors. First, they had the impartial Speaker nominating twelve men to it. His warrant was to be laid on the table of the House, and could be objected to once, twice, or three times—in fact, as long as they liked. On a vote of the House that warrant might be set aside, or individual members might be removed from the panel of twelve. Then afterwards the petitioner and the respondent might challenge them alternately. What could be fairer? He thought that the Bill and its provisions, especially those relating to the assessors, was another evidence of the extreme care and the great foresight and sagacity of the Premier who had framed it; and if they all lived to the age of Methuselah he thought they would never arrive at a fairer method of constituting the tribunal for determining those cases.

Mr. BLACK said that the hon. gentleman who had just sat down seemed to think that the proposed tribunal would be the essence of fairness, and he inferred, from what he said just now, that he was perfectly satisfied with previous tribunals which had been nominated by the Speaker. When the subject was being discussed last session, they had taken the trouble to hunt up all the decisions of previous tribunals, and they found that, with one exception, every one of those cases had been decided by the four party against the three.

The PREMIER: No.

Mr. BLACK said they had, with only one exception; and so it would be in the future.

The PREMIER: There were many more exceptions than one.

Mr. BLACK said that what they should have done, in his opinion, would have been to have referred all those cases to three judges—not to one—he was not in favour of one judge. He believed that would have been the right step to take. However, it had been decided that that was not to be the case, and they were just going to drift into the same state as before. Hon. members would always be prejudiced. He did not care whether they said they were or not; they were all prejudiced, although he did not go as far as the hon. junior member for Cook, who said that prejudice was synonymous with corruption. He had never heard that definition before, and he did not believe a word of it. There was no doubt that a great deal of time would be saved to the petitioner, whoever he might be, if they knew first of all what gentlemen composed the tribunal; and it would save a lot of money. He knew that from the experience he had had on those tribunals. The hon. member for North Brisbane, Mr. Brookes, had described his experience of the Elections and Qualifications Committee. The hon. member was evidently satisfied that matters would not be materially altered by the Elections Tribunal proposed by the Bill, but he was quite willing to give it a trial, just, as he said, "for the fun of the thing." He thought the hon. member's experience in the past would warn him to keep clear of the Elections Tribunal, but he was perfectly certain that if the hon. member should ever be so unfortunate as to come before them he would look very carefully to the composition of the tribunal, and if he saw it composed of four members from the Opposition side and two from his own, he would consider himself doomed. One good point in the Bill, and for which it was entitled to a little more confidence than the present tribunal, was that the proceedings were to be held in open court. The public would be admitted, there would be reporters there, and it would not be the hole-and-corner affair that the existing tribunal was. He knew a good deal about those tribunals, and he believed it was chiefly owing to the action taken by the hon. member for Rockhampton and himself in connection with the Elections and Qualifications Committee that the Bill had been brought in. They were so thoroughly disgusted with the way in which the parties acted, and the invariable partisanship exhibited, that, to use a very homely phrase, they "burst up the whole concern," and would have nothing more to do with it.

The PREMIER: They did very well without you.

Mr. BLACK said their successors succeeded in bringing in about the most ridiculous decisions he had ever heard of. There were three cases to be tried, and of the three the first was decided one way—supposed to be on the ground of the equity and good conscience of the case; the second on a point of law; and as to how and why the third was decided as it was he had never been able to satisfy his mind. He really thought the committee had got into such a muddle when they left them, and were so frightened of the criticism they were likely to get from the public, that they lost their heads altogether, and brought in a most extraordinary verdict. He was quite sure the junior member for Cook would thoroughly endorse that statement. The Bill was a decided improvement upon the system in force at present, which he hoped would never be brought into force again. The debate—since the proposition to hand the whole matter over to judges only had been defeated, which in his opinion was preferable to the proposal of the Bill—would now tend upon the way in which the tribunal would be constituted, and if the Premier could only see his way to give some assurance that the two sides would be fairly represented, he did not think that they could hope to get any more than that. He did not mean to say that it would prove any more impartial or more satisfactory than the previous one, though it would perhaps have a little better chance. Under the Bill the Speaker would be put into a most invidious position, and he would certainly like to have some guarantee that he would exercise justice in selecting an equal number of members from both sides of the House. That was the only point upon which they differed. The Opposition side were afraid that they might in the future get a Speaker who would not be actuated at all times by proper motives, and who for party purposes might give a considerable preponderance to one side of the House, and so defeat the intention of the Bill.

Mr. FOOTE said that the hon. gentleman who had just sat down seemed to be very pleased with the manner in which he acted upon the Elections and Qualifications Committee two years ago. The hon. member attributed to himself a great amount of influence, and had stated that that matter had been conducted from a purely prejudiced point of view. He understood the reason why the hon. gentleman left the committee. It was because the minority could not rule. So long as he had had a seat in the House the Speaker had always selected four from the Government and three from the Opposition side to form the Elections and Qualifications Committee. The hon. member claimed that the action taken by himself and the hon. member for Rockhampton had led to the introduction of the Bill. Probably that had been the first occasion upon which the hon. member had an opportunity of hearing a decision come to by the Elections and Qualifications Committee discussed in the House. Since he (Mr. Foote) had been a member of the House, however, there had been many occasions upon which similar discussions had taken place, and the Opposition side, whenever the case went against them, threw the usual amount of abuse which was always thrown on such occasions, and which was thrown on the last occasion. However, the previous Ministry could never see their way to alter or modify that state of things, but the present Government possessed both the power and the ability to bring in a Bill to remedy the evil. He thought the Bill met the case in every respect, and he had no doubt that they had a good guarantee, from his action in the past, that the Speaker would do justice in the selection of the tribunal from both sides of the House. It had been shown by the hon. member for Carnarvon that it was impossible to divide seven men equally, but in the Bill there would be three selected from each side, and the judge would act as chairman, and consequently there would not be the difficulties to be apprehended which had hitherto existed. The hon. gentleman claimed that his action and the action of his friend had been the means of bursting up the committee. It did nothing of the sort. There were other members appointed in their stead; the committee completed the whole of their work, nor were they influenced by those members in the slightest degree. The hon. member seemed to fancy there was something in his person that could intimidate the members of that committee, but he was very much mistaken if he thought he could intimidate one member of that committee, either on the committee, in the House, or anywhere else. The hon. member had no influence upon the committee, nor had his departure any influence upon them. He only had his voice, and attention was paid to what he said when matters were being deliberated upon in the proper way. There was one thing he regretted, and only one, in connection with the matter, and that was that in one of the cases, when their report was decided upon, it was not brought up the same day as that which had been adopted by the committee. If ever he sat again on a committee he would take care that would not be the case, no matter how many Blacks might be on the committee.

Mr. LUMLEY HILL said that one comfort there would be in the proposed alteration was, that it was not likely that the hon. gentleman who had just sat down would ever be chairman of the committee again. That was a source of infinite satisfaction to him. The hon. member spoke of the alteration of the report brought up by the committee, but he had never given any reason for the decision the committee had arrived at.

Mr. FOOTE: I was not supposed to give reasons.

Mr. LUMLEY HILL said the hon. gentleman could not give any. He was glad to hear the information given them by the hon. member for Mackay with regard to himself and the hon. member for Rockhampton clearing off the committee, because the conclusion he arrived at before they did so was simply that they had heard so much outside that they knew they would have to vote against their own party, and that went so much against their grain that rather than do it they chucked up the job, and let a couple of comparative new chums be put upon the committee, who were good party men and had not much idea of what was right—or, at least, of the balance of evidence. It was a most extraordinary decision that was arrived at, and he was glad the hon. member for Mackay thoroughly recognised that fact, as he was a man of experience in those matters. That was the solution he arrived at in his own mind of the reason those hon. members left the committee. Their action had not, unfortunately, the effect of bursting up the committee, which he should not have been sorry to see. However, he had never complained of the decision arrived at.

Mr. GRIMES said they had heard a good deal that evening about the corruption and depravity of the members forming that Assembly, and one would think after listening to the remarks of hon. members opposite that the committee was one mass of corruption. But it seemed that they had one redeeming quality, and he was particularly pleased to express his satisfaction that they had yet "one prophet left

in Israel." They had in Mr. Black a prophet who could foretell what was to happen in the future. That hon. member had informed them that whatever the tribunal might be under that Bill, he would be able to tell the decisions they would give in a matter. He (Mr. Grimes) had listened very patiently to all the different schemes that had been proposed by hon. members opposite and by some members on his own side, and he could not see that there would be anything different from the old system unless they adopted the proposals of that Bill. They would still have four members from one side and three from the other on the tribunal. One hon. member had suggested that the whole of the members of the House should be taken as a panel, but if they accepted that plan they would still have four to three, as there were always more members supporting the Government than those in opposition. If they took the suggestion of the hon. member for Fassifern and had the panel decided by choice they would still have four to three, as there were twenty-nine on the Government side and only twenty on the Opposition side of the Committee. All the proposals amounted to the same thing, and not one of them came up to the scheme in the Bill, which he should certainly support in preference to anything that had been yet suggested.

Mr. STEVENS said he agreed with the hon. member for Mackay so far as concerned his statements that the proposed tribunal was a very great improvement on the old system, but he could not coincide with the hon. gentleman in his remarks about the late Elections and Qualifications Committee. The hon. member took considerable credit to himself for having left that committee in the middle of their work. That might be all very well in his opinion, but that was not the view taken by other hon. members. It was certainly not his (Mr. Stevens's) opinion. It was not the first time the member for Mackay had brought that same thing before the Committee, and he (Mr. Stevens) could only regard it as a reflection upon himself, as he sat on the same side of the table as the hon. member. He (Mr. Stevens), however, conceived it to be his duty to see the thing out—not to leave the case because he could not have his own way—and also to get the remaining case tried on its merits. That was done, and the verdict was unanimous. He thought the hon. member would have shown more fair play if he had not been so egotistic in his speech. The fact of his having left the committee in the way he did had very little to do with the bringing in of that Bill. He thought it was more from the action of the hon. member for Carnarvon, who sat on the other side of the committee, and expressed very much the same views as he (Mr. Stevens) and others did on that question—namely, that it was impossible to have a fair and impartial tribunal surrounded by an atmosphere of politics—that the measure was introduced. If credit was due to anybody outside the Premier, it was to the member for Carnarvon, and not to the member for Mackay or the member for Rockhampton.

Mr. FOXTON said that before the debate closed he would like to say a few words in reference to that decision of the Elections and Qualifications Committee which had been so freely canvassed that evening. Several members had expressed surprise and astonishment at the result of the trial of the Cook election petition, and although many of the remarks were made in a jocular strain, he could not silently submit to them, because that jocularity did not appear in *Hansard*. He would very shortly state the lines upon which the committee went. Certain malpractices had taken place at that election. There was considerable ballot-box stuffing, and one of the members who had been returned was directly, by the evidence, connected with those malpractices. On the strength of the evidence the committee unseated him. There was nothing to connect the other member who was petitioned against—the present member for Cook (Mr. Hamilton)—with those malpractices, and even admitting as far as the committee could ascertain that all of those ballot-papers were improperly put into the boxes, that gentleman still had a majority. That was the reason why he was not unseated, and why the other member was. That was the reason why what appeared to some members a most extraordinary decision was arrived at; but he maintained that it was a fair and just decision. He would call the attention of the Premier to one point in connection with the clause under discussion. On referring to clause 18 he found it was there provided that "the registrar shall thereupon summon the assessors so chosen to attend at the time and place appointed for the trial of the petition or reference." It seemed to him that that clause would be the proper place to insert a provision which appeared necessary to make the Bill perfect—a provision to the effect that the Clerk of the House should, as soon as possible after the members were selected by the Speaker, transmit to the registrar the names and addresses of members chosen, in order that the registrar might properly carry out the duties imposed upon him by clause 18.

Mr. LUMLEY HILL said he was glad to have had some explanation in the Committee from the members of the Elections and Qualifications Committee. The hon. member for Carnarvon had pointed out that there was nothing whatever to connect the sitting member for Cook with that business at California Gully. There was this much to connect the member with it: that he had 182 votes out of fourteen men who voted. There was also this much to connect him with the other place, which had been taken as a test: that he had, as was known to the hon. member for Carnarvon, forty forged ballot-papers all in his favour and Mr. Cooper's. He admitted that, taking those away, the hon. member still had a majority; but his contention was that he took two out of thirty-one polling places, and conclusively, methodically, and undeniably proved his case in those two. He bowed to the decision of the committee, but he considered it a most unreasonable one. The mere fact of those papers being put in inevitably connected them with the parties in whose favour they were deposited. He never charged either Mr. Cooper or Mr. Hamilton with having put the papers in the boxes themselves. Of course they did not, but they were put in by their friends and agents.

Mr. HAMILTON: Agents? That is utterly untrue, and you know it.

Mr. LUMLEY HILL: Who put them in?

The CHAIRMAN said the discussion was quite irrelevant to the business before the Committee. He did not wish to check it before, but he now thought it was time he should do so.

Mr. HAMILTON said he quite agreed that they had had enough of the discussion, and it was utterly contemptible that any individual should bring up the subject so continually and pertinaciously as had been done by his colleague, Mr. Hill; and especially when he knew his statement to be utterly untrue. Mr. Hill thoroughly deserved the reputation he had gained of being the scavenger of the House. He knew perfectly well with regard to those 182 votes——

The CHAIRMAN said he must interrupt the hon. member. He had used most unparliamentary language.

Mr. HAMILTON said it was only fair that he should explain that, even excluding the votes which Mr. Hill had alluded to, he (Mr. Hamilton) had still a large majority. If one should lose his seat because more votes were recorded in his favour than there were electors, then the hon. member was equally liable to that penalty, as in one place where there were only seven voters he had twenty-three votes.

The PREMIER said he had been awaiting an opportunity to reply to the question which had been put to him by the hon. member for Mackay. He would take the opportunity of saying that he thought the Committee was sick of the Cook election. They had all formed their own opinions about the way it was conducted, and who was responsible for the malpractices which took place. He did not think it was worth while discussing it any longer. The hon. member for Mackay thought some assurance should be given by the Government that one-half of the members should be chosen from each side of the House. He had expressed the opinion of the Government on that matter several times in the course of the debate. He had said that that ought to be understood as a rule laid down by the House for the guidance of the Speaker. If necessary, it might be formulated by a resolution, but he did not think it was necessary to do so; and he did not think it could be conveniently inserted in the Bill. He did not think the hon. member for Townsville could fairly complain that his suggestions had not received consideration. They had discussed them, and he had given the reasons why the Government did not approve of them and could not accept them. The matter had been very fully discussed indeed, and he hoped they might now be allowed to get to business. With regard to the suggestion of the hon. member for Carnarvon that the names and addresses of the members chosen should be sent to the registrar, that was certainly an omission. It could be rectified either in that clause or clause 18. If no amendment were proposed in the earlier part of the clause, he would move the addition of a paragraph embodying the hon. member's suggestion.

Mr. STEVENS said he thought it ought to be provided in the Act that members should be chosen from both sides of the House, but after what had fallen from the Premier he did not intend to press the matter further. He thought that after what been said it would be impossible for any Speaker to take any other action than that; but it seemed to him the difficulty of recognising the Opposition might have been avoided by speaking of members sitting on the right and left of the Speaker.

Mr. NORTON said he quite agreed that the details of the Cook election should not be everlastingly brought up, yet he thought that every man had a right to refer to it in general terms, because it illustrated the very point they were discussing. For his part he was sick of it, and so no doubt were most other hon. members, yet they must not for a moment appear to consent to what might seem to be the Chairman's ruling —that the matter was not to be referred to. With regard to the suggestion that the Speaker should consult with the leaders of the Government and Opposition before choosing the twelve members of the House, the Premier had objected that it was not desirable to embody it in the Bill. The hon. member thought it would be better done by a resolution of the House, on the ground that there was not supposed to be any recognised Opposition. But that was only playing with words, because as a matter of fact there was always a recognised Opposition. All matters between the two sides of the House were conducted by the two leaders, so that they were merely wasting words in attempting to ignore the fact that there was a recognised Opposition. He believed it would have satisfied both sides of the House if an amendment had been inserted to the effect that the Speaker, before proceeding with the selection of the twelve members, should consult the leaders of both sides. For his part, he considered the objection was a fanciful one, because all through the discussion it had been admitted that the twelve members should be selected in that way.

The HON. J. M. MACROSSAN said the Premier must have misunderstood him, that he should have spoken of his (Mr. Macrossan's) complaining that his suggestions had not been considered. He had not made any such complaint. The complaint he made, if any, was that no suggestion from that side of the House would be accepted. Now, after all the debating, the hon. gentleman had come to the conclusion that it could be embodied in a resolution of the House. If he had said so at first there would have been an end to the discussion.

The PREMIER: That is a very different suggestion from the one you made.

The HON. J. M. MACROSSAN: But the principle is the same—namely, that there should be a jury selected from both sides of the House.

The PREMIER: That has been conceded all along.

The HON. J. M. MACROSSAN: It was conceded in this way: that the matter was to be understood. But they were not satisfied with an understanding, and now the hon. gentleman said it might be embodied in a resolution of the House. Would the hon. gentleman undertake to allow a resolution of the kind to go as a formal matter?

The PREMIER: Certainly not; it is of too much importance to go as a formal matter.

The HON. J. M. MACROSSAN: Why should the hon. gentleman object to its going as a formal matter? Why have all the discussion over again?

The PREMIER said the assurance had been given all the evening that the Government thought that the Speaker should select an equal number of members from each side of the House. No one had suggested anything else, except some hon. members on the other side, who were apparently talking against time. With regard to a remark of the hon. member for Port Curtis, there was no such person known to the Constitution as the leader of the Opposition any more than there was any one known as the Prime Minister. They all knew that the leader of the Opposition took a most important part in the government of the country, and so did the Opposition, but it was not convenient to recognise them in Acts of Parliament. As to the suggested resolution, to pass it as a formal motion would be a mistake. A formal resolution implied common consent to a thing to which no particular importance was attached. The value of a resolution of that kind was not in its being printed in the records of Parliament, but from the fact that reasons were given for it, and that it was accepted by both sides of the House. The Bill would not come into operation during the present session, and no advantage would be gained in passing the resolution now.

The HON. J. M. MACROSSAN: It would be an instruction to following Speakers.

The PREMIER said the debate would be just as valuable for that purpose. It should be remembered that the panel could be dissolved by the House at any moment. It was entirely in

the hands of the House; and with such safeguards as were provided he was certain that no better way of getting an impartial panel could be found.

Mr. STEVENSON said the debate was being wound up in a most unsatisfactory manner. The Premier had been saying all along that he had nothing to do with the nominations of the Speaker, and now he was giving the Committee an assurance—thinking it would be acceptable to them—that the Speaker would choose six members from each side of the House. On what authority did the hon. gentleman give the assurance? The thing was perfectly monstrous. The very fact of hon. members of the Elections and Qualifications Committee having taken so much trouble to explain their impartiality showed the absurdity of both the present and the proposed tribunal. Only imagine the senior member for Cook being nominated to decide on a case in which the junior member for Cook was interested, or *vice versâ!* It was impossible to get rid of political prejudices and partialities. Members of the Elections and Qualifications Committee had gone back years and years to show cases in which they had been impartial—cases in which no one could possibly be interested except themselves and the persons concerned in the trials—and yet they could not get over the fact that there were four members on one side and three on the other. With regard to the Government side, it was evident that the word had been passed round that they were to support the Bill. There was the hon. member, Mr. Aland, who would certainly have been at the Toowoomba show if he had not been told that that debate was coming on; the junior member for Cook had supported the Government for the first time during the present session; and the hon. member Mr. Annear had said that he was impartial before he became a member of the House, thereby implying that he was not impartial now. The Premier had said that he could not allow such a resolution as had been suggested to pass as a formal motion; was he prepared to move such a resolution himself, or would he support it if moved by any other member? Speaking for himself, he was not satisfied with the hon. gentleman's assurance that the Speaker would do as the Premier told him.

Mr. ALAND said the hon. member was again assuming his old rôle of lecturer to the House generally, but he could assure him that his lecturing had no effect upon him (Mr. Aland), nor upon those who sat on that side of the Committee. He was certainly not at Toowoomba to-day, but he failed to see what business that was of the hon. member for Normanby. He could go there, or stay away, as he pleased; and he could assure the hon. member that the Bill had had nothing whatever to do with his staying away.

Mr. STEVENSON: Perhaps the show was not worth going to.

Mr. LUMLEY HILL: He is staying for the two guineas.

Mr. ALAND said he was not asked to be present here to-day, and the hon. member was really assuming too much when he imputed motives to him. The hon. member was quite wrong in saying that the Premier had assured the Committee that the Speaker would act according to his instructions.

Mr. STEVENSON: I never said anything of the kind.

Mr. ALAND: It was tantamount to that. The hon. member said the Premier had given an assurance that the Speaker would always select six members from each side of the House. That, he believed, was what the hon. member said. Now, the Premier had given no assurance of anything of the sort. He gave it as his opinion that the Speaker would do so, and he (Mr. Aland) had no doubt that the Speaker would conform to the wishes of the House, as he was liable to be called upon by the House to answer for anything which he did which was not in accordance with the spirit of fairness. Many hon. members he knew of would be only too ready to call the Speaker to task for doing anything which they might consider unfair. But the time might arise when the Speaker could not select six members from one side of the House. He had known the time when there were only four members of the Ministry and the hon. member for South Brisbane, Mr. Jordan, sitting on one side of the House when the Speaker had to perform the duty of appointing an Elections and Qualifications Committee, and the same thing might happen again. He did not believe it was likely to happen during the next session of Parliament, although it was very nearly happening at the beginning of this session.

The PREMIER said he would just remark this with respect to what had fallen from the hon. member for Normanby: that if he had been in his place during the evening he would not have made the speech he had made. He moved that in subsection 9 of clause 13 the words "last two" be omitted, with a view of inserting the words "two last preceding."

Amendment agreed to.

The PREMIER moved that in the same subsection the word "clause" be omitted, with a view of inserting the word "section."

Amendment agreed to.

The PREMIER moved that the following new subsection be added at the end of the clause:—

A copy of the panel of assessors, with the addresses of the members thereof, shall, from time to time, be forwarded by the Clerk of the Assembly to the registrar.

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

On clause 14, as follows:—

"The trial of an election petition or reference shall be held in Brisbane, at the Supreme Court House or at such other place or places as the elections judge shall appoint.

"The time for the trial shall be appointed by the elections judge."

Mr. PALMER said under the old rule of the Committee of Elections and Qualifications no sitting could take place while the House was sitting. Would that rule apply to the new tribunal?

The PREMIER said that question had occurred to him, and he had some doubt whether it was necessary to provide for it. It might be inconvenient to make it absolutely compulsory upon the court to adjourn, when by sitting a few minutes longer a case might be decided. The assessors, of course, could always break up the court by not stopping. He had an amendment prepared to deal with that point, and if it was inserted at all its proper place would be after clause 32. He did not, however, think it was necessary to propose it.

Mr. FOXTON said with reference to that he would point out that the elections judge might appoint the trial to be held anywhere within the colony.

The PREMIER: No; in Brisbane.

Mr. FOXTON: "Or such other place as the judge may decide."

The PREMIER : "In Brisbane" covers the whole.

Mr. PALMER said that in the interests of his constituents he should object to sitting on an election petition while the House was sitting.

Mr. LUMLEY HILL said he thought the hon. member for Burke had introduced a valuable suggestion. If he were one of the assessors he might feel it his duty to go to the House, but he was not sure what view the judge might take. There should be a provision made in the Bill that election cases should not be tried during the time the House was sitting.

Mr. NORTON said it would be better to state expressly that the sittings of the tribunal should be in Brisbane. So far as the suggestion of the hon. member for Burke was concerned, he thought it would be going against the practice of the House to allow the tribunal to sit while the House was sitting.

The PREMIER said he thought it better to state more explicitly that the court should sit only in Brisbane, and if hon. members thought it a convenient place to put in the other provision with regard to the time of meeting, that could also be done. He moved that the words "or places" be omitted with a view of inserting the words "in Brisbane."

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

On the motion of the PREMIER, the CHAIRMAN left the chair, reported progress, and asked leave to sit again. The Committee obtained leave to sit again to-morrow.

REVENUE AND EXPENDITURE IN NORTH AND SOUTH.

The COLONIAL TREASURER laid on the table Treasury returns showing the revenue and expenditure in the Northern and Southern divisions of the colony.

ADJOURNMENT.

The PREMIER said : I move that this House do now adjourn. The Government business for to-morrow will stand on the paper in the same order as to-day.

Mr. NORTON said it was understood last night that the Colonial Treasurer would be in a position to-night to state when the Estimates would be laid on the table.

The COLONIAL TREASURER (Hon. J. R. Dickson) : If the House sits on Friday, I daresay they will be laid on the table then ; otherwise they will not be brought down till Tuesday next.

Mr. BLACK : When are the other Northern financial returns likely to be laid on the table? A debate on the subject is coming on next week, and it is necessary that they should be ready for hon. members. One important return has been already laid on the table, and I hope we shall have the other as soon as possible.

The COLONIAL TREASURER: The return moved for by the hon. member for Mackay will not be ready till to-morrow. It is now being checked at the Treasury.

Question put and passed.

The House adjourned at twenty-eight minutes past 10 o'clock.