Queensland

Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 26 AUGUST 1886

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LEGISLATIVE COUNCIL.

Thursday, 26 *August*, 1886.

Emu Park Railway Deviation.—Elections Tribunal Bill —third reading.—Pacific Island Labourers Act Amendment Bill — Consideration of Legislative Assembly's Message of date 7th instant.—Elections Act of 1885 Amendment Bill—committee.—Justices Bill—second reading.—Mineral Oils Bill—second reading.

The PRESIDING CHAIRMAN took the chair at 4 o'clock.

EMU PARK RAILWAY DEVIATION.

The HON. F. T. GREGORY laid upon the table of the House the report of the Select Committee upon the proposed Emu Park Railway deviation, together with the proceedings of the Committee; and moved that they be printed.

Question put and passed.

ELECTIONS TRIBUNAL BILL—THIRD READING.

On the motion of the HON. W. H. WILSON, this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly by message in the usual form.

PACIFIC ISLAND LABOURERS ACT AMENDMENT BILL.

CONSIDERATION OF LEGISLATIVE ASSEMBLY'S MESSAGE OF DATE 7TH INSTANT.

On the motion of the HON. W. H. WILSON, the Presiding Chairman left the chair, and the House went into committee to consider the Legislative Assembly's message.

The HON. W. H. WILSON said it would be noticed on the business-paper that the reasons given by the Legislative Assembly for disagreeing with the Council's amendments were as followed:—

"The Legislative Assembly having had under consideration the Legislative Council's amendments in the Pacific Island Labourers Bill, disagree to the said amendments, because it is desirable that the immediate duty of defraying the cost of the burial of islanders should be imposed upon their employers, and the delay that would frequently arise under the proposed amendment in ascertaining whether the islander left any personal estate would render the provisions of the clause inoperative; but propose to substitute instead thereof, the following words to be added to clause 5, viz.:—'But the employer shall be entitled to be recouped the reasonable amount of such cost out of the personal estate, if any, of the islander.'

"In which amendment they invite the concurrence of the Legislative Council."

The effect of the Council's amendments were that an employer should not be required to pay an islander's funeral expenses where the islander died possessed of personal property. That principle had been accepted by the Assembly, but the amendment had been returned in a slightly different form. The original amendment was drafted somewhat hurriedly at the table, and more time for the consideration of it was of course afforded in another place. The substance of the Council's amendment remained unaltered, but it had been recast in order to remove any possible ambiguity with regard to the means to be adopted in recovering payment for burial. He therefore thought the Committee would do well to agree to the clause as amended by the Assembly, and he moved that the Council do not insist on their amendments.

The HON. F. T. GREGORY said: As the original mover of the amendment which had been recast by the other House, he rose to express his concurrence with the form in which it was now proposed to be passed, although, at the same time, he must confess that it threw back to a certain extent the onus upon the employer, whilst that employer might have derived a very small amount of benefit from the services of the Pacific Islander who died; but, notwithstanding that, as the amendment to a great extent met the object he had in view, he would not raise any objection to its being accepted. It was certainly in a better form, but still, as he had just observed, it threw back a liability on the employer, which he otherwise would not have had.

Question put and passed.

The HON. W. H. WILSON moved that the Council concur in the amendment of the Legislative Assembly.

Question put and passed.

The House resumed, and the CHAIRMAN reported that the Council did not insist upon their amendments, and concurred in the amendment of the Legislative Assembly.

The report was adopted, and the Bill ordered to be returned to the Legislative Assembly by message in the usual form.

ELECTIONS ACT OF 1885 AMENDMENT BILL—COMMITTEE.

On the motion of the HON. W. H. WILSON, the Presiding Chairman left the chair, and the House went into committee to consider this Bill.

Preamble postponed.

Clauses 1, 2, and 3 passed as printed.

On clause 4—"Forms may be provided by the Government Printer"—

The HON. A. J. THYNNE said he would like to ask a question upon that clause. The first portion of it read:—"Forms of claims may be provided by the Government Printer, with the sanction of the Minister." Was it intended that any person who wished to get those forms must first of all apply to the Minister? because, if so, it would be rather inconvenient for those people who were not supporters of the Ministry for the time being. He did not know whether that was the intention of the clause, and why the sanction of the Minister should be required he did not see. Why should the matter not be left to the

discretion of the Government Printer himself? It seemed a most trivial thing to require the sanction of the Minister for, and the clause might have the effect of exposing the hands of political parties to the Minister for the time being.

The HON. W. H. WILSON said the Act was of course under the administration of the Minister mentioned in the principal Act, and it was simply provided that the forms should be supplied by the Government Printer in the usual way under the sanction of the head of the department. That meant that the forms should be supplied in the regular order.

The HON. F. T. GREGORY said he was going to observe, in reference to the point raised by the Hon. Mr. Thynne, that it was not at all clear from whence those forms could be obtained. The forms would be provided by the Government Printer, with the sanction of the Minister, of course, because he had no power to issue forms on his own authority. But there was nothing in the clause to show from whom the forms were to be obtained directly by the constituents. If they were only to be obtained from the Government Printer in Brisbane, then it was very clear that a very limited number of people would apply. If the clause stated that the forms would be supplied to the different electoral registrars, then it would be perfectly clear, but in its present form it was particularly obscure. He thought if the Hon. Mr. Thynne, who had drawn attention to the point, would propose an amendment to show from whom the forms were to be obtained, it would be an improvement upon the Bill.

The HON. W. H. WILSON said the Bill should be read in connection with the principal Act—the Elections Act of 1885—and there it would be found that the Minister, who was casually mentioned in the Bill, was stated in the interpretation clause to mean the "Colonial Secretary or other Minister in charge of the execution of this Act." He had not had time to look through the Act, but he had not the slightest doubt that it contained the usual provision for the forms to be provided by the Government Printer and forwarded to the different clerks of petty sessions. He would also point out, in connection with the Elections Act itself, that there had never been any complaints whatever with regard to the want of forms, or that they could not be obtained. He knew that there had not been the slightest difficulty in that respect. The forms were there—as many as were required—and the Bill did not propose to interfere in any way with the manner in which the forms should be supplied. It simply altered and simplified the form of claim, and he did not think there was any necessity for an amendment.

The HON. A. J. THYNNE moved the omission on line 1 of the word "may," with the view of inserting the word "shall."

Amendment agreed to.

The HON. A. J. THYNNE moved that the following words be added at the end of the 1st paragraph of the clause—"and shall be supplied in reasonable quantities to the electoral registrars for the use of intending claimants."

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

Clause 5—Amendment of section 31 of 49 Vic., No. 13—put and passed.

Preamble put and passed.

On the motion of the HON. W. H. WILSON, the CHAIRMAN left the chair, and reported the Bill to the House with amendments.

The report was adopted, and the third reading of the Bill made an Order of the Day for Wednesday next.

JUSTICES BILL—SECOND READING.

The HON. W. H. WILSON said: Hon. gentlemen,—This is a Bill to consolidate and amend the laws relating to justices of the peace and their powers and authorities. You are aware that a similar Bill was first introduced into this House in September, 1885, by the Postmaster-General. It was passed by this House and transmitted to the Assembly in the usual way, but as this occurred when the session was nearly at an end, the measure only went as far as the second reading in another place. We have thus lost nearly a year by the Bill being shelved, but perhaps that loss will be counted a gain when we take into consideration the amendments made in the measure in another place, which are no doubt a great improvement. If hon. gentlemen will look at the first schedule, they will find that twenty-two Acts of Parliament are proposed to be repealed by this Bill, and this fact alone will testify to the magnitude of the task undertaken by the draftsman in the preparation of this measure, which is really a codification, consolidation, and amendment of those different Acts. They are all Acts relating to proceedings before justices, and at present they are in such a state as to make it almost impossible for justices properly to elucidate the law without a very great deal of trouble. It is rather unfortunate, I think, that this codification was not attempted some years ago, seeing the great boon it would have been to our unpaid magistracy, whose gratuitous labours are entitled to our warmest acknowledgments. The punishment of crime in our midst is undertaken principally by them, and they ought to have had in the past a great deal more consideration shown to them. This Bill is divided into the same number of parts as the Bill of last session, but certain clauses have been transposed so as to come under more appropriate headings. The time fixed for the commencement of the Act is the 1st January, 1887, and the reason for that is that it will give time for the necessary forms to be printed and circulated amongst the clerks of petty sessions. The forms, which may be seen at the end of the Bill, are very lengthy, and it will take some time to print and circulate them, otherwise the Act would no doubt be brought into operation at an earlier date. The interpretation clause is almost the same as in the Bill introduced last session. There are two additions, which will be found on the third page. "Chairman of a municipal district" means the mayor or president of the municipality or chairman of the divisional board in question; and "oath" includes a solemn affirmation or declaration when such affirmation or declaration may by law be made instead of taking an oath. This new definition will commend itself to hon. gentlemen as a distinct advance on the existing law. And by clause 15 justices may make an affirmation of allegiance in lieu of taking the oath. Part II. relates entirely to the appointment of justices and magistrates and their vacation of office. Part III. relates to the jurisdiction of justices. By clause 19 it is intended to provide that where no provision is made for the punishment of offenders this section will furnish authority for their punishment in a summary manner. Part III. covers the powers of justices and the extent of their jurisdiction. Section 28 has been altered so as to give power to a police magistrate to commit. This may possibly be contained in the present law, but the amendment clears up any doubt, and will be found specially useful in country districts. The proviso says that upon a complaint for an indictable offence the police magistrate, if he is one of the justices, may commit the defendant for trial, notwithstanding that the majority of the justices are of opinion

that the defendant should be discharged; but it will be seen that in any such case a memorandum of the dissent of the majority of the justices shall be made upon or attached to the depositions. Clause 39 gives power to order delivery of possession of goods charged to have been stolen or fraudulently obtained, and in the custody of a police officer. The provision is already in force in certain places, but this section makes it general over the whole colony. Section 40 is the same as the clause proposed by me last session, but it is improved by the insertion of the words "may be excluded from the court by order of the justices, and may, whether he is so excluded or not." The law now is that justices may require an offender to enter into recognisances to be of good behaviour, or expel him from the court, and the clause here inserted makes the law very much more certain, and is a great improvement. I pass on now to Part IV., which contains clauses relating to general procedure, the manner in which complaints may be made, service of summons, also clauses relating to warrants. Clause 51 provides that, when it is intended to issue a warrant in the first instance against the party charged, the complaint must be in writing and on oath, which oath may be made either by the complainant or some other person; but when it is intended to issue a summons instead of a warrant in the first instance the complaint need not be in writing, or on oath, but may be verbal merely and without oath. This is inserted to facilitate proceedings in regard to minor complaints. Clause 64, relating to search-warrants, is a most useful provision. In practice it is found that magistrates often lament the want of such a provision in the Justices Acts; there is one in the Larceny Act, but what is wanted is a more general provision such as this. Clause 69 is an important clause. It provides that a person taken into custody for an offence without a warrant shall be brought before the justices as soon as practicable; and, if it is not practicable to bring him before the justices within twenty-four hours, an inspector or other police officer may inquire into the case. That will prevent a man being kept for a considerable time in custody without any inquiry being made into his offence. The next clause to which I will draw attention is the 75th; it will be found very useful and in accordance with the tendency of modern thought. It provides that, upon any complaint of a simple offence or breach of duty, the defendant and the wife or husband of the defendant shall be competent witnesses, either on his or her behalf. There is no other clause of importance until we reach clause 112. By the similar section in the old Bill justices were not required to hear offences unless they chose, but it is now provided that, where a person is charged with an indictable offence as such, they are bound to hear any evidence tendered on his behalf tending to show that he is not guilty of the offence with which he is charged. That gives the defendant an opportunity of giving some evidence on his own behalf instead of being left without the opportunity of showing, which he perhaps may be able to do with the greatest ease, that he is not guilty. Clause 113 is an important section, providing that if the defendant admits his guilt and does not wish the witnesses again to appear to give evidence against him at the higher court, he will be committed for sentence. That will facilitate the action of magistrates and the proceedings of magistrates' courts. If the defendant does not wish the witnesses to appear again in the higher court, there is no necessity to go through the evidence again. The next important clause is the 129th, which is inserted to meet cases that have actually occurred in practice, and led to the discharge of prisoners for want of power to deal with them. Part VI. relates to proceedings in cases of simple offences and breaches of duty. I may mention that I have carefully compared this Bill with the Bill of last session, and marked against the clauses of this Bill the corresponding clauses of the Bill of last session. This marked Bill will be at the disposal of hon. gentlemen during the passing of the measure, so that any clause to which reference is made can be seen at once, and hon. members will be able to discover whether it is included in the Bill passed last session or not. Clause 164 is a useful provision, giving magistrates power to allow time for the payment of costs, or take security for the payment of money. Clause 172 is an elaborate section, but the only addition I notice is in subsection 2, which contains a very useful provision to the effect that when an execution issues against a person in an ordinary case the goods cannot be sold for five clear days, but in the case of perishable goods they may be sold at the expiration of twenty-four hours from seizure after such notice as is practicable. By section 174 the scale of imprisonment is fixed, and the proviso states that when a conviction or order does not order the payment of any penalty, or compensation, or sum of money, but orders the payment of costs, and when a complaint is dismissed with costs to be paid by the complainant, the period of imprisonment imposed upon non-payment of such costs shall not exceed one month. Part VII. relates to the summary punishment of certain indictable offences, and there is no difference between the clauses in this part and those contained in Part VII. of the Bill of last session. By clause 186, in a case of confession of simple larceny, or stealing from the person, or embezzlement, or attempting to obtain money by false pretences, the justices may dispose of the case in a summary way, and that is a very useful provision. Part VIII. relates to sureties of the peace for good behaviour, and is an improvement on the existing law, which is practically an *ex parte* hearing. By sections 198, 199, and 200, some alterations have been made which are of very great use. Section 200 provides that on the making of any complaint, as aforesaid, the justices may receive corroborating evidence of third persons by affidavit; and by clause 203 the defendant may produce evidence to show that the complaint is made from malice or for vexation only, or in contradiction of the facts stated in the complaint. The defendant is not enabled to do that at the present time, and I think the provision will be found a very useful improvement. Part IX. relates to appeals from the decisions of justices. The clauses seem to have been very carefully drawn, and they are taken from the Bill of last session, except clause 215, which is new. That clause provides that a person called upon by an order to show cause, may, if he thinks fit, file in the registry of the Supreme Court, or lodge with the judge's associate, if the order is returnable before a judge on circuit, a notice that he does not intend to show cause against the order. And thereupon an order quashing the conviction or order as against the person giving such notice, with or without costs, may be drawn up by the registrar or judge's associate as of course, and without any further reference to the court. This will be a great saving of expense. An appeal lies to the district court by section 237, and section 243 says that if the judge so orders, or the parties so agree, the appeal shall be by way of re-hearing; but otherwise it shall be heard and determined upon the evidence and proceedings before the justices. Part X., which is the last part of the Bill, relates to the protection of justices in the execution of their office. There are some slight improvements on the Bill of last session; but it is not necessary that I should draw attention to them now. The whole

of the Bill seems to have been very carefully revised, and is hardly capable of improvement. Hon. gentlemen will look carefully through it before we go into committee, and if there is anything that can be improved it will then be considered. The schedules seem to have been carefully revised, and it is an improvement to make a seal unnecessary. At the end of Schedule 6 are the words, "Given under my hand," and that form is carried all through the schedules. The seal is entirely unnecessary, and it is about time its use was abolished. I should have gone through the different clauses more carefully and at greater length if this Bill had not been before the Council on a previous occasion; but it will be within the recollection of hon. gentlemen that when the Bill was introduced into this Chamber before it received a great deal of attention at the hands of hon. gentlemen. A good many amendments were then made, and the Bill has since had the advantage of going through the Assembly and being very carefully revised there; so that I think it is now as perfect a measure as can be formulated. I shall be very glad to see it pass into law, and I am sure that magistrates and those who have the conduct of cases will also be very glad to find that at last there is to be a codification of the laws relating to justices. I beg to move that the Bill be now read a second time.

The HON. F. T. GREGORY said: Hon. gentlemen,—In rising to speak to this Bill it is not my intention to detain the House very many minutes, inasmuch as the representative of the Government has truly said that the measure has recently been before us, and there is no material departure in the present measure from that which was so carefully considered last session. The measure in itself is valuable as bringing into one view the whole of the various points that have to be dealt with by justices of the peace in carrying out their functions. It is both a consolidation and, as far as I am able to give an opinion, a valuable codification of the principles of the various Acts which it is intended to take the place of. It is quite possible that when the Bill comes into committee there may be a few minor defects to be found in it, or points to which it may be desirable to give a little further consideration, but I confess that, having read it through twice lately, I have not discovered yet anything that is sufficiently material to justify me in drawing the attention of the House to at the present time. Under these circumstances I think the measure may be accepted by the House as a valuable instalment of legislation, and no doubt it will tend to relieve the magisterial bench of a very great deal of trouble in endeavouring to find out the various enactments under which they have hitherto had to adjudicate in cases brought to their notice. I shall support the second reading of the Bill.

The HON. G. KING said: Hon. gentlemen,—I have had very much pleasure in perusing the Bill now before us. It will be a great boon to the magistrates of the colony for the consolidation of so many Acts, and their codification will lead to an immense saving of time. In addition, I may say that the Bill reads well and is free from those technicalities which are so embarrassing to the lay mind. I have much pleasure in supporting the second reading.

The HON. A. J. THYNNE said: Hon. gentlemen,—I will follow in the footsteps of those who have spoken before me and shall not speak at great length upon the Bill, because we have had it already under consideration last session. The Bill, no doubt, is a very good one, but still there may be a few little matters as we go through with it in which improvements may be made. I think a good many of the Council's amendments introduced last session have been adopted by the Government, and by the other Chamber in passing this measure through, and I do not think there are many alterations left for us to make; but still there may be one or two slight ones. Hon. gentlemen will see that in all proceedings which justices have to deal with in petty sessions, or in their ordinary functions of magistrates, that the offences which they have to deal with are divided into three classes. First, indictable offences, in which there is an apparent case for committal to a higher court. Then, summary convictions are divided into two classes: the first, a simple offence, which may be punishable by fine and imprisonment; and the second, a breach of duty, such as neglecting to maintain children, or where orders for payment of money can be made. That is a very convenient description of the different offences. It is a great improvement, and will clear off a great deal of misapprehension or liability to mistake in the minds of those who have to deal with such proceedings. In clause 15, I notice that magistrates have to be sworn in before a judge of the Supreme Court, a judge of the district court, a police magistrate, or any justice authorised in that behalf. Now, it is convenient to extend the power of administering these oaths to police magistrates, but it occurs to me that there is one class of new appointments that would not be benefited by this clause at all. By the Bill special power is given for the appointment of justices beyond the colony, and it will very often happen—in fact, it has happened already—that there has been a difficulty in getting justices to act in distant places, because there is no person there authorised to swear them in. For instance, if we wanted to appoint a justice of the peace for Queensland in Scotland, unless there was a justice for Queensland already in Scotland, there would be no one there to swear him in. A very slight alteration would meet the case, and the clause might be made to read, "or any justice or other person authorised to administer the oath." We can trust the Supreme Court to select only persons of respectability to administer the oath. I think the omission of the seal, as provided for in clause 20, is a great improvement. We are gradually getting over the ancient ideas with regard to the difference between seal and no seal, and I am glad to see it carried out in this Bill. In clause 28 there is a matter which has been a great deal discussed, and it will be open still to a little more discussion. I refer to the power of magistrates to commit in the case of an adverse majority on the bench. I am inclined to think that at present the law is that any one magistrate, whether a police magistrate or not, if he is convinced or believes that there is a case for inquiry by a jury, has the power to commit a man for trial notwithstanding that there may be a dozen others besides himself on the bench who are not of that opinion. It is an open question what the position of the magistrate is, but it is quite clear that if that power exists at all it is not limited to police magistrates. Any ordinary magistrate has the same power as a police magistrate with regard to his dealing with a committal case where there is a majority against him, the majority being in favour of discharging the accused person. I am inclined to think that the strict law at present is that any one magistrate may commit, and the question which we ought to consider is whether the amendment is a good amendment—whether it is wise to take away that power from ordinary magistrates, to confer it on police magistrates alone, and in all other cases where there is a majority against the committal, that the voice of the majority should decide. There may be cases in many places where there is no police magistrate, and where

the evil that this section is intended to obviate may be met with—where a bench may be composed of men biased or interested in favour possibly of an accused person. There may be two or three independent magistrates who wish to see justice done, who may desire to see a case sent up for further investigation, and yet the majority would succeed in having the prisoner released. It is a question with me whether that is a good thing to do, and I am inclined to think that if we give the power to the police magistrate as one justice, the power ought to be reserved in full as the law stands now. Hon. gentlemen will bear in mind that committal for trial does not mean conviction, and if a man is committed for trial he has a further opportunity of showing his innocence at a trial conducted with full formality. There is an important matter which I think my hon. friend did not call attention to in clause 56, referring to cases where the summons has been served personally upon the defendant, and providing that the constable or person serving the summons may go before any magistrate in the neighbourhood and make an affidavit that he has served it, and that that will be taken in the court as proof of service. That will save a great deal of expense that has hitherto been incurred; and not only that, but cases will not have to be abandoned for want of proof of service of summons. The clause dealing with search-warrants is as good an exposition of the present law on the subject as we could have. In clause 69 it will be seen that there is an omission which may be supplied with advantage. That clause provides that, in places where a justice cannot be easily got to attend, the inspector or sub-inspector of police shall investigate the case and have the power of committing an accused person to bail. Now, in section 94, we have another provision by which not only the police officers, but the clerks of petty sessions, may take recognisances for bail, and I think, to make the two clauses work harmoniously, it would be well in clause 69 to give the clerk of petty sessions the power of committing the accused persons to bail pending the arrival of a magistrate. I am pleased to see that clause 75 has met with the approval of the other branch of the Legislature. Some three years ago I brought in a Bill making this law applicable to all cases, and it did not meet at that time with very much favour; but I am pleased to see that the justice of it has been since admitted by both Houses of Parliament. In clause 104 there is a provision which will be the means of saving a great deal of time which is unnecessarily wasted now in the reading over by the police magistrate or clerk of petty sessions of the whole of the depositions at the conclusion of the evidence, although probably they have been read over half-a-dozen times in the course of the proceedings. Clause 113 is new, and has not been considered by this House on a previous occasion. It is one which may be occasionally of value, although it is not very likely that many prisoners will be so considerate of the witnesses as to excuse them from attendance by pleading guilty and awaiting the sentence of the judge. According to the clause, if a prisoner pleads guilty, there can be no further trial. He is not committed for trial, but is at once committed to the higher court for sentence. If the clause is availed of, so much the better; but I think there are few prisoners who will be so good as to throw away their chance of escape for the sake of giving less trouble. Clauses 139 and 140 are, I think, new, and provide for an adjournment of the hearing from one place to another so as not to necessitate the whole of the witnesses being brought to one court. Clauses 172 and 173 are also new to this Bill, I think, being taken from the English Act, and they are undoubtedly a great improvement to the Bill. Clause 177 is also new. It gives the Governor power to remit any fine, penalty, forfeiture, or costs imposed by a conviction, whether they are payable to any person other than Her Majesty or not. I think that is a very large power to give—power to remit the payment of a debt due, payable to a private individual. I do not know on what principle it is justified; but at the same time, I have no doubt the Governor is not at all likely to exercise the power of remission of a penalty of that kind unless a very strong case indeed is made out. Part VIII. of the Bill, as the Hon. Mr. Wilson has pointed out, contains a very valuable improvement on the present law. At the present time, if a person swears an information against another, and requests that he be bound over to keep the peace, the defendant cannot call evidence in his own defence. It is simply an *ex parte* proceeding, and whether he might be guilty of violent language or any other objectionable conduct, he must be bound over if the plaintiff swears up to the mark; but here the matter is put upon a logical and proper basis, in which the defendant has an equal opportunity of being heard with the plaintiff. I do not think that there are many alterations we can make in this Bill. I have alluded to two or three, but otherwise I think the Bill will be a great improvement and a very valuable addition to our statute law.

The HON. W. FORREST said: Hon. gentlemen,—My friend the Hon. Mr. King has exactly expressed my feelings with regard to this Bill. I look upon it as an admirable codification of the law now in existence, and I am convinced it will be of great assistance to magistrates throughout the colony. I have, however, one suggestion to make for its improvement. I think it would be a great advantage if summonses could be issued by wire. If the proper information were laid before a magistrate at the place where the trial is to come off, and the magistrate considers that a summons ought to be issued, then he should have the power to telegraph to the police magistrate at the place where the witness is residing, and he could issue his summons for the attendance of that witness. If that could be done—and it would be very easy to draft a clause to that effect—it would facilitate and hasten the ends of justice. I hold in my hand a letter which admirably illustrates the case to which I refer. I do not care to read it without permission, as private individuals do not, as a rule, like to see their letters in print; but I will place it at the disposal of any member of this House, and I think it will show that my suggestion, if carried out, would be a very great convenience. Take, for instance, the case of a witness who resides at the Gulf of Carpentaria. A magistrate down here has to issue his summons, and it has to be sent all that distance, and personally served upon the witness. Supposing an innocent man is committed for trial at Brisbane, see what a grievance he suffers in a case of this kind, as the delay in getting witnesses under existing conditions is necessarily very great. I shall be very glad if this suggestion of mine can be carried into effect, but otherwise I think the Bill a most admirable one.

The HON. F. T. BRENTNALL said: Hon. gentlemen,—It must be a matter of extreme gratification to the representative of the Government to find a large Bill like this, containing 265 clauses, meeting with such unanimity of approval in this House. There has been something said about the consolidation and codification of a number of statutes in this Bill, but to my mind a more admirable quality than either consolidation or codification is the simplification of these things,

rendering them intelligible to almost any man—no matter what may be his status of education—who may have to sit upon the bench of magistrates to adjudicate upon cases brought before him. It is a most important matter that the law with which magistrates may have to deal should be brought before them in a form that an ordinary mind can understand, free from those puzzling technicalities which have been so very frequent in statutes, especially statutes of this character. The first best feature, of course, is to have the best points of numerous statutes brought within convenient compass and within reach of every man's hand, but the second admirable quality of this Bill seems to me to be its lucidity, and I think these are the two qualities which commend it to hon. gentlemen of this House. There are several new and good features in this Bill, and I heartily endorse the remarks that have been made in reference to some of those features—remarks which have been made by gentlemen who have had considerably more experience in dealing with evidence, with defence in courts of law, and matters of that kind, than I myself have had. I very much approve of the introduction of the principle contained in clause 75, and I was pleased to hear the Hon. Mr. Thynne give his hearty approval to the provisions of that clause; that is, making it legal for a husband and wife to give evidence on behalf of one another. I think clause 113, to which the Hon. Mr. Thynne gave a little more hesitating approval, is a very good one, and I feel satisfied that it will commend itself to the judgment of every hon. member of this House. I think the majority of us will agree that anything which will save expense in prosecution will be a benefit to the general public, and if a man will confess to a wrong and save the expense of a rehearing of his case in a higher court it will decidedly have a good effect. This course may perhaps deprive gentlemen learned in the law of some fees, but it will also save the pockets of the general public to a great extent. There are several other good features in the measure before us, but I will not recapitulate what has already been said. There may be some few amendments to be made, but it seems to me that in a Bill so admirably drawn up I have no hope of being able to suggest any improvement.

The HON. A. C. GREGORY said: Hon. gentlemen,—I think the Bill had a very good sifting last session, though perhaps upon reconsideration we may be able to see some small amendments which would be an improvement to it. Still there is one matter that I think we should pay attention to. I will not go over the same ground as other hon. members have taken, because it is unnecessary on a second reading; but I do think it would be desirable that we should eliminate clauses 8 and 9, which provide that the chairman of a divisional board or municipality shall *ex officio* be a magistrate. Now, it has already been considered that the the number of magistrates who have been placed on the commission of the peace has been ample in those parts of the country where there is likely to be a chairman of a board or municipality, and if any name is omitted no doubt it will be for good and just cause, and I think it is not desirable that anyone should be placed on the commission of the peace *ex officio* when the appointment to the office does not rest with the Governor. If the appointment of mayors or chairmen of boards rested with the Governor, then I could see no objection, because he would not appoint anyone who would be unsuitable. I think both in our Municipalities Act and in our Local Government Act it is said that the chairman is *ex officio* a magistrate for his district, but I think it is very undesirable. If a person is elected chairman who is really suitable for a magistrate, I have no doubt the Governor would at once place him on the commission of the peace, and it would be better that in no case should any one become a justice of the peace *ex officio* unless his office was originally created by the Governor on the advice of his Council. I think that what the Hon. Mr. Forrest has said with regard to issuing summonses through the agency of the telegraph is quite right. We already make use of the telegraph in some cases by accepting telegrams as evidence in courts of justice, and it would certainly be a great convenience if, for instance, there was a witness at Charleville who was required to come forward in a Brisbane court. It would be very convenient if the police magistrate in Brisbane could wire to the police magistrate at Charleville to issue a summons there, thereby saving the trouble and expense of sending the summons and serving it personally. In some cases many days' delay would be avoided and there would then be little risk of an injustice occurring. With regard to the option that it is proposed to give offenders of pleading guilty and then being sent to the higher court for sentence, my own experience is that a great many persons will prefer to receive their sentences in a higher court without any further inquiry into the particular misdemeanour or unlawful act for which they are to be punished, and there is no doubt that in those cases where an offender just pleads guilty and saves inconvenience and trouble to witnesses, most probably the court will inflict, if it be admissible, a milder sentence, just as in the same way we see that in the case of summary convictions the sentence is not so severe as it would be if the offender was sent to a higher court. On the whole, I think the Bill is one that may fairly pass to a second reading, leaving the minor details to be dealt with in committee.

Question—That the Bill be now read a second time—put and passed.

Committal of the Bill made an Order of the Day for Wednesday next.

MINERAL OILS BILL—SECOND READING.

The HON. W. H. WILSON said: Hon. gentlemen,—The Act at present in force concerning the sale of mineral oils is the 43rd Vic., No. 9; and it is proposed by this Bill to repeal that Act and substitute for it the measure now before us. Under the Mineral Oils Act of 1879, the test provided is what is known as the open-cup test, but there is now a better system which is called the close-cup test, a description of which hon. gentlemen will see very carefully set out in the second schedule to this Bill. The directions for applying the test are there given. The test apparatus is to be placed in a position where it is not exposed to draughts. The testing vessel is to be filled with water of the temperature of 130 degrees Fahrenheit. When the temperature of the oil has reached about 76 degrees the operation of testing is to be commenced, the test flame being applied once for every rise of one degree in the following manner:—"The slide is gradually drawn open while the pendulum performs three oscillations, and is closed during the fourth oscillation. The temperature of the oil when the first flash is obtained is to be noted as the flashing point of the sample." During hot weather, if a sample flashes below 83 degrees Fahrenheit, the test must be repeated after cooling the oil down to 63 degrees. In that case the operation must be commenced when the temperature of the oil

reaches about 68 degrees. The 3rd section is the most important of the Bill, and it reads thus :—

"From and after the passing of this Act, all refined mineral oils which give off an inflammable vapour at a temperature of less than one hundred and ten degrees of Fahrenheit's thermometer, under the test prescribed in the First Schedule to this Act, and at a temperature of less than eighty-three degrees of Fahrenheit's thermometer, under the test prescribed in the Second Schedule to this Act, shall be deemed to be goods absolutely prohibited to be imported into Queensland within the meaning of the forty-first section of the Customs Act of 1873, and to be included in the table of prohibition in that section contained, and if any such oils are imported they shall be forfeited and destroyed, or exported, as the Colonial Treasurer may direct."

The 4th section gives the tests for oils, and the 5th provides for searches by Customs officers. The Bill also provides penalties for refusing information or for obstructing any officer; and persons who are aggrieved have the opportunity of appealing. The 8th section provides for the trial of offences and the disposal of penalties; and by the 9th the Governor in Council is empowered to make regulations for giving effect to the provisions of the Bill. The 10th section provides that the Act is not to apply to any refined mineral oil imported for purposes other than lighting purposes; and that is an important provision. The object of the Bill is to prevent dangerous oils being introduced into the colony, and to provide as far as possible all the safeguards that can be provided to prevent bad oil going into consumption. It is a very short Bill, and imposes no additional burdens on the trade. As the large importers are interested equally with Government in passing the measure, I think it will be conceded that the Bill provides for all those requirements which, in cases of this nature, are necessary. I beg to move that the Bill be now read a second time.

The HON. A. C. GREGORY said: Hon. gentlemen,—I think this Bill is one that we ought to pass. Certain difficulties have arisen under the existing law with regard to mineral oils, especially the test, which is rather antiquated, and not one which can be relied upon; and by adding a new form, which is certainly more accurate, we shall improve the law. I consider the last clause, which provides that the Act shall not apply to mineral oils other than those imported for lighting purposes, a very necessary and important provision; but I think we ought to go a little further. We must bear in mind that mineral oils do not consist of one particular kind of oil, but of some scores which give off vapour at various degrees of temperature, from 90 degrees and 100 degrees in the case of inferior oils, up to 600 degrees in the case of the heavy mineral oils and machine oils. And why we should force importers to send an oil out of the colony simply because it will only stand a rather low test I fail to understand, especially as it is very easy to raise the standard of any oil, however dangerous it may be considered, from any point to any other point which may be considered a safe standard. I will give an illustration showing how that can be done. Before the present Act came into force a large quantity of oil was imported on one occasion, and it was found to flash at 90 degrees. To test it I took a quantity, and found that it did flash at 90 degrees. I very soon raised it to 160 degrees by just evaporating the more volatile parts, and for that reason I think that instead of enforcing the exportation of the oil we should make provision for permitting its rectification in the colony. Then the oil should be required to pass a standard which has some reference to the climate in which it is to be used. In Victoria the temperature is 5 degrees below that of Queensland, and in that colony an oil with a flashing point 5 degrees lower may fairly be allowed to be used and with perfect safety, because by far the larger number of accidents occur through the use of oil having an excessively high flashing point than from the use of oil having an excessively low one. That arises from the fact that when the higher-test oil is used the wick is scorched, and great heat is created in the upper part of the lamp, and that has resulted in a greater number of lamp explosions than people generally are aware of. When we are in committee I think it will be desirable to amend clauses 3 and 5 so as to allow oils below test to remain in the colony for rectification. There is another matter to which I wish to allude, and it is one that should claim the attention of the Colonial Treasurer. What is to be done in regard to the article known as gasoline, which is simply mineral oil distilled from kerosine at a low temperature below the test point? Under the existing law it is absolutely prohibited, but we find that it is imported in considerable quantities and used continually, and duty is levied upon it, though all this time it is absolutely prohibited by law. If we pass this Bill into law as it stands gasolene will be prohibited and cannot be introduced, and all the atmospheric gas apparatus used by a considerable number of persons in the colony will be rendered unavailable simply because they will not have a supply of gasoline. That oil is the worst—the most dangerous—kerosine ever imported; at the same time I am not going to advocate its exclusion from importation, because, under reasonable precautions, and the public being duly warned, I see no reason why it should not be admitted. Something should be done to amend the Bill so that gasoline may be admitted, and the conditions under which it may be admitted should be stated. The necessity for a new test has been shown by a case which came under my own notice. I will not mention names or places; it will be sufficient to say that a thousand cases of kerosine were imported into Queensland in the cold weather. It passed the present test and went into consumption. A few months afterwards another thousand or so cases, drawn from the same tank, came in when the weather was hot. It did not pass the test, and it was re-exported. By-and-by the weather got cool, and it was re-imported, passed the Customs, and went into consumption. I simply mention that to show how uncertain the existing test is, and the necessity for introducing some new test such as the Bill proposes. Under the Bill both the old test and the new together must show the oil to be below test before it is to be considered under test. If it fails in one case and passes in the other, it will go into consumption; and that is right, because the old process is a rule of thumb method that ought rather to have been dropped, but for the fact that it is still in use in other countries. Indeed, but for that fact I should advocate both of them being dropped and others substituted. By taking samples of oil and manipulating them slightly I could make them pass either test or not as I thought fit, and the manipulation would scarcely be noticed by an expert, far less by those who were not practised. There is a far better test in actual use in laboratories but not in public use in other countries, so that we should perhaps be causing confusion by making any advance on the form of test proposed by the Bill. I have already exceeded the time I intended to take up, for I merely wished to draw attention to matters that will arise in committee, so that hon. members will not then be taken by surprise.

The HON. A. J. THYNNE said: Hon gentlemen,—I think this is the proper time to give the representative of the Government some informa-

tion with respect to the defects which appear in the Bill. In section 5 it is required that a portion of any sample of oil taken by a Customs officer is to be given to the owner. It may happen that the owner is somewhere in America, and the clause may be impracticable in some instances. I think the words "or the person in charge," should be added after the word "owner." Then the clause further provides that any refined mineral oils of such quality that their importation is prohibited under the provisions of the Act shall be forfeited; but there is no provision made for intimating to the owner or person in charge what the decision is when the oil is tested. The Hon. Mr. Gregory has shown us that that oil may very easily be made to come up to the test or not just as the operator chooses, and it is essential that we should take steps to prevent injury or loss being sustained by importers. I think the clause would be improved by a slight alteration to the effect that any refined mineral oils which the testing officer shall decide to be below test may be forfeited, and that notice of the decision of the testing officer shall be given at once to the person in charge. Then in the same clause there seems to be something else out of gear, because it says that oil shall be exported forthwith when under test, whereas clause 7 provides that fourteen days shall be allowed within which to appeal from the decision of the testing officer. It would be of very little use to appeal against a decision after being obliged to export the oil forthwith. I call attention to these defects in order that they may be remedied in committee, and I do so merely with the object of improving the measure.

The HON. W. FORREST said: Hon. gentlemen,—The amendment suggested by the Hon. A. C. Gregory commends itself very strongly to me. If oil does not pass the test, it is to be sent out of the colony as the Bill now stands; but, if the amendment suggested by the Hon. Mr. Gregory is carried, those who import oil that will not stand the test will be able to keep it in the colony for the purpose of rectification. That will open up a new industry, and, while it can do no harm, will probably do a great deal of good. If importers, by a proper process, can get the oil rectified to the point at which it will stand the test, I think they ought to be allowed to do so.

Question—That the Bill be now read a second time—put and passed.

Committal of the Bill made an Order of the Day for Wednesday next.

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