Queensland

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[Hansard]

Legislative Assembly

FRIDAY, 3 SEPTEMBER 1886

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LEGISLATIVE ASSEMBLY.

Friday, 3 *September*, 1886.

Question.—Motion for Adjournment—Accuracy of Treasury Tables.—Error in Bill.—Management of Gaols and Lockups.—Punishment for Contempt of Court.—Control and Management of Ports and Harbours.—Burning of the "Rockhampton."—Manufacture of Locomotives and Ironwork for Bridges in the Colony.—Adjournment.

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

QUESTION.

Mr. ADAMS asked the Chief Secretary—

Whether the Government will, at an early date, endeavour to extend to this colony the benefit of the parcels post system between this colony and England?

The CHIEF SECRETARY (Hon. Sir S. W. Griffith) replied—

The matter has for some time been under the consideration of the Government, but there are many difficulties in the way of extending the system of the parcels post to Queensland, some of which cannot be removed without legislation.

MOTION FOR ADJOURNMENT.

Accuracy of Treasury Tables.

The COLONIAL TREASURER (Hon. J. R. Dickson) said: Mr. Speaker,—Before we proceed to the business of the day, I desire to make an explanation, or, if the hon. member for Townsville prefers it, I will conclude with the usual motion; so that he will have an opportunity of replying. In the course of his speech last night, the hon. gentleman attacked the accuracy of the Treasury figures in certain tables, in connection with the question of separation, and the remarks were of such a character that I think I should be failing in my duty to the department if I did not publicly notice them, with a view of vindicating the Treasury from the accusation of negligence and inaccuracy which certainly would attach to i if these statements remained unanswered. I did not care to interject, when the hon. gentleman was speaking last evening, any remarks which might interrupt the thread of his speech, nor did I deem it right,

at the late hour of the evening at which the debate closed, to endeavour to make any explanation. Therefore, I take this the earliest opportunity of referring to the matter. I do not wish in any way to delay the business of private members this evening, but merely desire to vindicate the position of the Treasury regarding the accuracy of the Treasury officers in the statements which have been prepared by them for the information of hon. members. The hon. gentleman in the course of his speech proceeded to deal with the Treasury tables, and said :—

"He (the Treasurer) says the separate works and services in which the deficit has accrued"—

That is to say, the deficit upon loans—

"have never yet been carried out either by the Treasury or the Auditor-General, but I think I can show that this Treasury return, which was laid on the table of the House on the 11th August in response to the request of the hon. member for Burke, asking the Treasurer for the figures on which he based his statements up north, is incorrect. I think I shall show that these deficits are kept and appropriated to different works through Treasury returns other than this one, and I shall show by these returns that the Treasurer's statements in this return are extremely incorrect. I have here a copy of the tables connected with the Treasurer's Financial Statement for the year 1886-7, and I find the deficits apportioned here, although he says they are not. So that he actually laid upon the table of the House returns of which he knew nothing. Let hon. members turn to page 5 of the Treasurer's Statement, Table D. They will there find a statement of the loan balances which gives the total amount of the loan votes without the appropriations of the different loan depreciations. Turn to page 15, Table R, and we there find the same loan votes so far as railways are concerned, with the depreciation added; and if hon. gentlemen will take the trouble to go through these depreciations the same as I have done and add them together, they will find that the total of loan depreciations appropriated to railways alone, independent of other public works or services, amounts actually to £455,000 more than the total deficit altogether. The total deficit on all loans is £1,241,000, while the loan depreciation appropriated for railways alone amounts to £1,696,000, and that is, mark you, independent of the £558,000 which the hon. gentleman told us the other night was deficient on immigration votes alone."

I may remark here, in regard to that £558,000 deficit on immigration votes, that I do not remember having ever made that statement.

The HON. J. M. MACROSSAN: It is in *Hansard*.

The COLONIAL TREASURER:

"How can the hon. gentleman expect us to take his figures or that letter which he read, as true statements or as financially controverting the figures I produced in this House, when, by his own tables laid on the table of the House during the Financial Statement, he has shown them to be incorrect?"

I have taken the trouble to make this statement, because the officers of the Treasury cannot arrive at the basis upon which the hon. gentleman states that there is a deficiency upon railway appropriation alone amounting to £1,696,000, and I shall be glad if the hon. gentleman will prepare a statement, or afford a statement which may be analysed by the Treasury officers and the accuracy of the Treasury returns vindicated. I will refer the hon. gentleman to the Treasury tables which accompanied the Financial Statement. I am inclined to think that the hon. gentleman has mixed up figures relating to different appropriations in a manner which has produced a result of an incorrect character. If hon. gentlemen will turn to Table D of the loan balances they will find that the total amount of loan votes represents £16,334,318. That is entirely independent of the deficits on loans, which is shown at the foot of the table to be £1,240,777. Now, if we turn to Table R, page 15, we find that the total loans for Queensland Railways, including depreciation, amount to £17,359,979; and deducting the amount of £13,334,318 we find a balance of £1,025,661, which is the actual deficit upon the railway loan votes. How the hon. gentleman arrives at the amount of £1,696,000 is to me incomprehensible. If it was any other hon. member I should think he was romancing, but I believe the hon. gentleman is really desirous that the public should be in possession of accurate knowledge. It is because I desire that also that I rise to enable him either to correct or substantiate his figures. I am quite willing to accept his challenge to do the same; and I hope that if either of us is proved to be wrong he will have the manliness to admit his error. I turn to the return laid upon the table on the motion of the hon. member for Burke, showing the public debt of Queensland and the apportionment of our loans, and I find it deals exactly with the same amount—£17,359,979. That will be found on page 2 of the return I have mentioned. Under the head of "Railways" hon. gentlemen will find that the total loan appropriation is set down as £17,359,979, exactly corresponding with the amount set down in Table R of the tables accompanying the Financial Statement, the difference between which and the amount set forth in Table D gives the actual deficiency on our Queensland railway loans at, as I have said, £1,025,661. I may add, however, that that is actually more than what the Treasury recognises as the actual deficiency of railway loan votes. Perhaps my explanation of this may to some extent obscure the argument I wish to deal with, but the Treasurer during the late Administration credited to Loan Account the proceeds of certain Treasury bills previously apportioned to the Railway Reserve Fund, amounting to £252,500. That has been added to the total loan appropriation for railways, and consequently reduces the deficiency to the extent of that amount. I do not know if I make myself clear to hon. members, but the actual appropriation out of loan for railways without the amount of the Treasury bills transferred from the Railway Reserves Fund would be £252,500 less than the amount represented in Table R. There has therefore been the sum of £252,500 added to the amount of our railway appropriation, and that swells what we term the railway appropriation; so that really, instead of being £1,025,661, the actual depreciation on our railways is only £773,161—that is, the difference between the original amount, £1,025,661, and the amount of £252,500, Treasury bills representing expenditure under the Railway Reserves Account. The total of the real depreciation is reduced by that amount, making, as I have said, the actual depreciation only £773,161. The reference to this sum, £252,500, will rather obscure the argument, but, broadly, I rise for the purpose of showing the real discrepancy between the Treasury figures and the figures produced by the hon. gentleman—the discrepancy between £1,025,661 and £1,696,000, a difference of over half-a-million; in fact a difference of over £600,000. I fancy that the hon. gentleman must have mixed up his figures, and that has led him to make an erroneous calculation. I have taken the earliest opportunity of making an explanation, and I will move the adjournment of the House to give the hon. gentleman an opportunity to reply, if he wishes, or I will not ask the hon. gentleman to reply at the present time.

The HON. J. M. MACROSSAN: I will reply now.

The COLONIAL TREASURER: Just as the hon. gentleman chooses, but if he chooses to take time to consider the matter I will offer no objection. My desire simply is to vindicate the accuracy of the Treasury returns. Those returns, which have formed the groundwork of

so much contention and discussion, I have found by the fullest examination not only to be accurate in every respect, but to be a credit to the Government department by whom they were drawn up. I beg to move the adjournment of the House.

The HON. J. M. MACROSSAN said: Mr. Speaker,—I cannot just now find that part of the hon. gentleman's speech in which he stated that the deficiency on the immigration vote was £558,000, but I know it is in the hon. gentleman's speech, as reported in *Hansard*.

The COLONIAL TREASURER: I think I said the balance.

The HON. J. M. MACROSSAN: I am certain that the hon. gentleman said what I have stated, but I will only deal with what he said now, and I will try to make my remarks as simple as possible, and at the same time confine myself exactly to what the hon. gentleman has stated. He tells us that the actual deficiency on the railway loans amounts to £1,025,000, but that by certain transfers made from the Railway Reserves Fund that deficiency should really be reduced to £773,161; but the hon. gentleman must surely see that, taking it at that amount, if we consider the deficiency of £558,000 on immigration, it will make a total of £1,331,161; so that, by what the hon. gentleman says now, he has evidently made a mistake in his calculations.

The COLONIAL TREASURER: I do not admit the £558,000 on immigration.

The HON. J. M. MACROSSAN: The hon. gentleman says he does not admit the deficiency on immigration, but I will find the statement in *Hansard* this afternoon and will show him what he said. There was £558,000 as a deficit on immigration loans. The hon. gentleman wants to know where I got my figures; I will tell him exactly where I got them, and he can trace each item for each railway as I go through them. In Table D, page 5, the actual loan appropriation for the Southern and Western Railway is £7,735,880. Now turn to Table R. There we have the same loan appropriation with the depreciation added. That amounts to £8,768,344, the difference between the two votes being £1,032,464. Now, where does that come from if it is not from loan depreciation? In Table D the Wide Bay and Burnett line is set down for £1,625,500; in Table R we find it to be £1,798,851, the difference being £173,351. In Table D the next item is the Central line; the appropriation for that was £2,629,478. Turning to Table R we find the Central debited with £2,932,637, being a difference of £303,159. The next is the Northern Railway—£1,290,000 loan appropriation; the depreciation added brings it to £1,425,692, the difference being £135,692. Now, I shall not go through the other items——

The COLONIAL TREASURER: Yes; go through the others.

The HON. J. M. MACROSSAN: Very well. The next item is Mackay to Eton and Hamilton; the amount voted there was £90,000 — of course I know it cost a great deal more, but that was the amount voted. The depreciation brings that to £109,455, a difference of £19,455. The next item in Table D is Bowen to Coalfields, £250,000. That is an error, I know, in the designation of the line; only £100,000 was voted for the Coalfields line, and £150,000 for the Haughton Gap line, but take the two together and allow the amount to be for the Bowen to Coalfields line, £250,000. In Table R the amount is £257,459, the difference being £7,459. Then we have Cooktown to Maytown, £330,000; against that in Table R is £349,255, the difference being £19,255. Then we have Herberton to Coast; £600,000 was the amount voted, and £606,846 the amount with depreciation, making a difference of £6,846. On the next item—Cloncurry to Gulf of Carpentaria—there is no depreciation, because that loan was floated with a credit balance. Now, the total of those amounts is £1,697,681. Can the hon. gentleman explain that away? If so, I shall be glad to get the explanation. I hope the hon. gentleman will give it so that hon. gentlemen can understand it, and that he will in future put his tables in such a form that the House can understand them.

The COLONIAL TREASURER said: Mr. Speaker,—The hon. gentleman, by his speech, has clearly shown the error into which he has fallen. It is an error into which anyone might have fallen without a very intimate knowledge of the Treasury accounts. The hon. gentleman has taken the amounts of loan votes for the construction of our railways, including the Southern and Western, Wide Bay and Burnett, Central, Northern, Mackay to Eton and Hamilton, Bowen to Coalfields, Cooktown to Maytown, Herberton to Coast, and Cloncurry to Gulf of Carpentaria; and he has contrasted the total appropriation on loan votes, as shown in Table D, with the amount shown in Table R. The hon. gentleman has pointed out that the amounts in Table R are inclusive of depreciation; but he has fallen into error through not knowing that the large item of rolling-stock, for which an appropriation of £1,017,000 appears in Table D, has been apportioned to the different railways, and consequently increases their expenditure to such an extent as to absorb a very large portion of the apparent difference between the appropriation as shown in Table D and the appropriation, including depreciation, as shown in Table R. He has taken the difference between the Southern and Western line vote as shown in Table D, and the amount of that vote, including depreciation as shown in Table R, and has assumed that that difference is the amount of depreciation. But that is not so. A part of that difference is absorbed by the transfer of this loan vote of £1,017,000 for rolling-stock for the service of the line; and it is the same with the other railways. Had I known the line of argument the hon. gentleman was about to pursue I should have been prepared with a table in proof of my case. If the hon. gentleman includes all the services on the railways, commencing with the Southern and Western, and going down to railway telegraph lines, he will find the total £16,334,318. The depreciation, as shown by the Auditor-General's books, is £1,025,661, which brings the total to £17,359,979. I admit that the tables are liable to mislead, and, perhaps, do not afford full information on this point, but I say the hon. gentleman has jumped too hastily to a conclusion. I do not wish to assume any personal superior knowledge of Treasury business—of course I have more ready access to the ledgers than the hon. member. My object is to vindicate the position of the Treasury before the country, and to entirely remove from the minds of hon. members the effect of the unintentional misstatements made by the hon. member that the Treasury figures are inaccurate, and were compiled with any other object than a desire to afford full information. I repeat that the hon. gentleman has been misled by the £1,017,000 for rolling-stock shown in Schedule D, which he did not pursue to its apportionment to the different railways, which so absorbed a considerable portion of the deficiency which the hon. member treated as depreciation. I beg to withdraw the motion.

Mr. NORTON said: Mr. Speaker,—Before the motion is withdrawn, I would point out to the Colonial Treasurer that these tables are the tables which the public have to guide them as to the

expenditure which has taken place. Now, is it surprising, if the accounts are made up in this way, that hon. members who try to understand them are misled? Why, sir, the tables should be made as clear as possible, so that everybody, whether a member of this House or not, whether expert at figures or not, might understand how the public accounts stand. I undertake to say that no one, unless he has had some experience of the manner in which the Treasury accounts are kept, would have seen through the mistake the hon. member for Townsville appears to have fallen into, and accounted for it in the manner explained by the Colonial Treasurer. I think the members of this House and the public generally have good right to complain of the Treasury accounts being made up in such a form as to require an explanation to make them understood. I do hope that what has taken place to-day will be a caution to the Treasurer and a guide to him, and will teach him for the future to make up these tables in such a manner that anyone can see at a glance what they represent. That is all we want. I am quite sure the hon. gentleman will not attach any blame to the hon. member for Townsville for having fallen into an error such as that which he has now explained. I hope that in future the tables will be made out in such a manner that they can be understood without the possibility of mistake.

The HON. J. M. MACROSSAN said: Mr. Speaker,—I should like, with the permission of the House, to say a word after what has fallen from the Colonial Treasurer. I ask any hon. member of the House, and the Colonial Treasurer himself, what other interpretation he can put on the figures he has quoted than the one which I put upon them? It is impossible. Here are two columns of figures, with headings indicating what they are. One column is headed "Total amount of loan votes," and the other column is headed "Loans, including depreciation." What could anyone do but compare those two columns of figures, taking them item by item? I have made no misstatement. If any error has been committed, if there is anything incorrect, the Treasurer is to blame in not putting the tables in his book in such a way that members can understand them. It is a common complaint on both sides of the House that members cannot understand the Colonial Treasurer's statements, and if he were to ask each individual member on his own side to give his candid opinion on the matter, that is the answer he would receive from the great majority. I know it is the case with myself. Let us have statements without mystification. I shall feel obliged to the hon. gentleman if he will give a complete statement in figures of what he has told us this afternoon.

Motion, by leave, withdrawn.

ERROR IN BILL.

The SPEAKER said: I have to inform the House that I have received the following letter from the Clerk of the Parliaments:—

"Brisbane, 3rd September, 1886.

"SIR,—In compliance with the 20th Joint Standing Order, I have the honour to report that in the Elections Tribunal Bill there appears to be a clerical error. In line 1 of clause 36 the word 'candidates' occurs where the general phraseology of the Bill appears to require the words 'sitting members.'

"I have, etc.,
"H. W. RADFORD,
"Clerk of the Parliaments.

"To the Hon. the Speaker of the Legislative Assembly."

On motion of the ATTORNEY-GENERAL, it was ordered that the letter be taken into consideration in committee on Tuesday next.

MANAGEMENT OF GAOLS AND LOCKUPS.

Mr. JESSOP, in moving—

That, in the opinion of this House, it is highly desirable that a Royal Commission should be appointed to inquire into the management of the various gaols, penal establishments, and lockups of the colony—

said: Mr. Speaker,—It will be remembered by hon. members that last session I gave notice of motion that I would move for a select committee to inquire into the management of the gaols and lockups of the colony. Circumstances over which I had no control prevented me from bringing the motion before the House within a time which would have allowed the committee to finish the inquiry before the close of the session. I therefore decided to bring it forward again this session, and had got so far with it as to have obtained the consent of several hon. members to sit on the committee if it was granted. On further consideration, after having talked the matter over with other hon. members, I decided that it would be better to have a Royal Commission. A Royal Commission would have a much better chance of eliciting evidence than a select committee; it would not be necessary to occupy the time of members of the House, and the inquiry could be carried on when the House was not in session. My reason for bringing this matter before the House is simply to set the public right upon it. Rumours of various kinds have been going round the colony for a long time; they have been discussed a great many times in my hearing both by members of the House and the outside public, and reasons have been assigned why something has not been done to set the country right as to the management of its gaols and lockups. We have heard stories of many kinds, some of them almost unfit for publication; and it is desirable that those whose names have been mentioned in this way should have an opportunity of vindicating themselves in the eyes of the public. It is well known that in many instances the gaols are far too small to hold all the prisoners, and that the cells are crowded to excess. Charges of a very grave nature have been made against some of the officers—turnkeys, gaolers, or whatever they may be. They have been charged with levying blackmail on the friends of the prisoners, insisting upon money being given to them, and borrowing from the wives, sisters, mothers, and other relations of the prisoners consigned to their charge—the plea being that if they did lend or give money the prisoners would get the benefit of it, that the strict discipline would be relaxed in his case, and that indulgences would be given him which he would not get otherwise. I will mention one case which I know can be proved. Witnesses can be produced who can swear on oath that they lent money to a late gaoler—a considerable sum of money, in one case, on the same pretence that I have already mentioned. What was the result? The gaoler gave a promissory note for the money, and when the note became due he dishonoured it and afterwards went insolvent. Now the poor woman is, I believe, working for a livelihood when she might be living on the money lent to the governor of the gaol. I think the Premier will bear me out when I state that very serious charges were made against the same official about the time he was dismissed. The wife of one prisoner has told me that she could go to the gaol at any time to see her husband, that the officials were very kind to her, and that at any time she went to the gaol she could spend the afternoon in the cell with her husband if she liked.

The PREMIER: What gaol was that? Brisbane Gaol?

Mr. JESSOP : I do not know whether it was in Brisbane Gaol or St. Helena; but this I do know, that she made those statements without being asked. I have heard, too, that in some cases propositions of an immoral character have been made. I have also been told that, although the food allowed to prisoners is not by any means too much, it is frequently kept back; that they do not get all their allowance, and that the officials in the gaol keep fowls for sale and feed them with food which ought to be given to the prisoners. If this is true it is time that an inquiry was made into the matter, so that things may be set right. If it is not true, then those who are now bearing these imputations will have their characters vindicated. Again, I have heard that in the "Hopeful" case the prisoners were kept in Brisbane Gaol considerably longer than they ought to have been, instead of being sent to St. Helena.

The PREMIER : There was nothing about sending them to St. Helena.

Mr. JESSOP : I thought they ought to be sent there. Are not all long-sentenced prisoners supposed to be sent to St. Helena?

The PREMIER : No.

Mr. JESSOP : I was under the impression that they were, and have simply mentioned the circumstances as they were told to me. There is one thing I would call attention to particularly, and that is that when a man who was sentenced to imprisonment for life was taken ill and was dying, the gaol officials would not allow his irons to be knocked off even a few hours before his death. I think that to permit such treatment as that is going back to the old ages when people were cast into dungeon cells to die. If what I have stated is correct, the sooner this matter is inquired into the better. With reference to lockups, I suppose most hon. members have read the report written by the *Courier* reporter who got himself locked up in the drunkards' cell at the Brisbane lockup; and those who have read that will no doubt admit that an inquiry is necessary. I believe that too many people are crowded into the cells, and people who go about the back-yard of the police court have told me that the smell coming from them is disgusting. Much has been said about the Brisbane cells, but I believe they are palaces compared with the cells up-country. Very few of the cells in country lockups are larger than ten feet by ten feet. That is the size of the cells at Dalby, and it is too small for confining four or five persons in hot weather, especially as there is very little ventilation in them. I recollect a case in which six men were locked up in a small cell at Miles. They had to strip themselves almost naked to keep themselves from being partly boiled down, and they had to send a requisition to the police magistrate through their solicitor at Dalby, asking for permission to get a little fresh air in the open yard; and that is the kind of thing which obtains in many parts of the colony. And again, if a man is apprehended, say, at 2 o'clock on a Sunday afternoon, he is cast into a cell, and, guilty or not, is kept there until 11 o'clock the next morning. Then if he is found guilty and is sentenced to twelve hours' detention, he is taken back and allowed a two-pound loaf of bread and some water. If he is remanded for eight days he has to herd with the lowest of the low all the time, and he gets nothing else but bread and water; in fact, he is treated as if he had been found guilty. That is not right. According to our law every man is presumed to be innocent until he is found guilty, and the kind of thing I have described should be put a stop to. Prisoners who are committed for trial and kept in Brisbane Gaol to be sent to Roma or Dalby, have their suppers about 4 or 5 o'clock on the evening before they leave, and it consists of bread and water. They have to be up next morning at 5 o'clock at the latest in order to catch the 5·40 a.m. train. What do hon. members think those men get? They are allowed no breakfast, and get nothing on the way unless the constables in charge are charitable enough to give them some refreshment and pay for it out of their own pockets, which I am glad to say I have seen them do frequently. No provision, however, is made for the prisoners, and in ninety-nine cases out of a hundred they get nothing before they start and nothing on the journey. I hold that men who have not been found guilty, and are only awaiting their trial, should have some better treatment than that, and that some provision should be made for them on a journey which occupies from twenty minutes to 6 o'clock in the morning till 9 o'clock at night. Very frequently prisoners have to be brought to town by coach for a distance of 100 miles, and I understand that in those cases the same provision is made as for those who are carried by train—and that is none. I will not occupy the time of the House much longer. I may, however, mention that I have not brought forward this matter at a minute's consideration, but after a great deal of deliberation, and at the request of a number of people. I do not make the motion with the view of having punishment put on anyone, but it is introduced to set people right, and to give the officials concerned fair play by having the charges which have been made carefully investigated. It will be better for them, if what has been stated is not true, that they should have their character vindicated and that there should be an inquiry. I thoroughly believe that an investigation of this kind would be found useful with regard to hospitals and asylums as well as gaols. At any rate, it could do no harm, while it might do a great deal of good. I move the motion standing in my name.

The COLONIAL SECRETARY (Hon. B. B. Moreton) said : Mr. Speaker,—When I read the motion I expected to hear from the hon. member for Dalby something much stronger than we have heard as the reason why he asks for a Royal Commission to inquire into the management of the various gaols, penal establishments, and lockups of the colony. I thought he would have brought the motion forward on a much larger ground—on the management of our penal establishments, with the object of finding out how we could carry them on in a more economical manner than at present, and also with the object of amending any real abuses that exist in the management.

Mr. JESSOP : That is my object.

The COLONIAL SECRETARY : In supporting his motion, the hon. gentleman has mentioned several faults—that the cells are too small in the smaller gaols; that some of the turnkeys are supposed to borrow money from the relatives of the prisoners; that food is sometimes kept back from the prisoners; and that the prisoners are not supplied with food during long journeys. Now, whenever any of those matters occurred, if they had been brought under the notice of the Government an investigation would have been instituted, and the Government would have seen into the rights and wrongs of individual cases as they occurred, and would have had an opportunity of rectifying whatever was wrong. There is no one who will not admit that some of the country lockups are smaller than they should be; but that is entirely a matter of expense. If the Government had the money they could build larger gaols and lockups. But it must be remembered that many of the gaols and

lockups in the country were built a long time ago, and that as they have never been added to by past Ministries, they are now smaller than they ought to be, considering the population. That in some cases they should be enlarged I have not the slightest doubt, and by erecting more gaols in the country we might economise in the matter of the travelling expenses of prisoners. I have no doubt that a Royal Commission, taking up a very much larger question than that involved in the motion, may be of some utility in eliciting information as to the best plan for the future management of our criminal population; and if it is the wish of the House that such a thing should be done the Government will take the matter into their consideration. I think that if we could get a Royal Commission that would give us some information as to the various methods of dealing with the criminal population in other countries, the building of gaols and penal establishments, and the classification of prisoners when put into them, great advantage might result from their labours. Therefore, if the appointment of a Royal Commission meets with the approval of the House, I have not the slightest doubt that the Government will be willing to agree to the motion on the terms I have indicated.

Mr. NORTON said: Mr. Speaker,—This subject is one which deserves a great deal of consideration; and I was somewhat surprised at the Colonial Secretary stating that if it was the wish of the House the Government would have no objection to appointing a Royal Commission. What is the wish of the Government? That is what we want to know. Are the Government in favour of the motion, or opposed to it? Surely the Government ought to be able to tell this House whether they approve or disapprove of a motion of this kind. When a private member brings forward a motion like this, a member of the Government should say at once whether the Government intend to accept it or not. It is not fair to say that they will do a certain thing if it is the wish of the House. I do not believe in Royal Commissions. I believe they are a mistake, and that in very few cases have they led to any good at all. At the same time, the reports of the manner in which some of the gaols and lockups are conducted show that it is absolutely necessary that some proper inspection should take place to ascertain whether any improvement can be made. I will mention one or two cases to which public attention has been called. There is the lockup in Brisbane. Until a member of the Press got locked up in that place no improvement was made there, and nobody seemed to know the condition of the place; yet there was no resisting the account given in the Press. The place was in a perfectly filthy state, not fit for a pig, and yet a number of unfortunate persons, who were not convicted of any crime, but were merely awaiting their trial, or remanded, were locked up night after night in that disgusting cell, which was in a filthy state of dirt and nastiness. That alone proves that some sort of inspection is required. But there are other cases. I remember reading of a case, which happened at Charters Towers, where a number of prisoners had to be locked up in a cell which was absurdly small for anything like the number. The hon. member for Wide Bay (Mr. Bailey) last session mentioned that when he was in Townsville he went to see the lockup, and found a state of things which he reported to this House; and I think the report he made had a decidedly beneficial effect. It opened the eyes of hon. members to the fact that the lockups of the colony were not conducted in the manner in which they ought to be; and surely, when matters like that are brought up—sometimes by private members, at other times by the Press, and again in the reports of country papers, in regard to the mismanagement of country lockups—it is quite time for something like a proper investigation to be made. I should be glad to hear what the Chief Secretary has to say on the subject, whether he thinks that by sending round a Government officer to hold a proper investigation, the state of affairs can be improved; or whether he thinks a Royal Commission, or any other commission, should be appointed, and whether the inquiry held by such commission would lead to any good result. At any rate, we may expect at once a statement from the Treasury benches as to what the Government intend to do with regard to the motion.

The PREMIER (Hon. Sir S. W. Griffith) said: Mr. Speaker, — Though I acted as Colonial Secretary for nearly two years and a-half, I am sorry to say that I know very little about the gaols of the colony. The fact was that the duties of that office had become so heavy that I was not able to attend to them. I intended to devote a considerable amount of attention to them, but that would involve much time, which I had not at my disposal. I am not satisfied, for instance, with the arrangement by which the penal establishment of St. Helena is not under the same head as other gaols, although I know the division was effected by Sir Arthur Palmer for reasons that appeared satisfactory. I have heard complaints from time to time about minor matters in connection with some of the gaols such as the hon. member has referred to, but I do not think they are very serious. So far as his complaints go, they chiefly relate to defective accommodation, and we do not want a Royal Commission to inquire into them. We know the accommodation is defective; but, as my hon. colleague said, that is simply a question of money. But let it be understood that we cannot be expected to provide gaol accommodation beyond the average accommodation of the place requiring it. If people get gaol accommodation equal to the average accommodation in the towns, they do not think that is enough.

Mr. DONALDSON: What about Adavale?

The PREMIER: Well, I suppose the average accommodation at Adavale is not very superior. I do not know what the average accommodation there is, but there is a legend told of the accommodation at Thursday Island, that a person was told by the sergeant of police that if he did not behave himself he would lock him out.

Mr. JESSOP: Unless he behaved himself he would not be let in again.

The PREMIER: Yes; I think that was it. We do not want a Royal Commission to inquire into those things. I confess I do not know as much about the matter as I ought to do, and the fact of my not being able to look after the department was one of the reasons that induced me to advise my colleagues that that part of the Colonial Secretary's duties should be taken away from the head of the Government. But I do not think there is any work that the Colonial Secretary could more easily master, with the assistance of an officer appointed for the purpose. The Colonial Secretary cannot be expected to go all over the country inquiring into details, but they ought to be inquired into, and I think the Colonial Secretary should, as far as possible, make himself personally acquainted with the general system of administration. I am not prepared to say that I think the general administration of penal establishments in this colony is satisfactory. I cannot, however, go any further and say what is wanted, but I have no doubt that in the course of a week or two all necessary information could be obtained. At the same time, I do not know

whether it would be best to send a commission or a single officer to investigate and inquire into the working of penal establishments. It is a question between a commission or a good officer, and I agree with the hon. the leader of the Opposition when he says he does not believe much in commissions. They are very expensive at all events. Their proceedings are often very discursive, and they seldom make any practical recommendations. Now, what is wanted is some thoroughly competent man to inquire into the whole matter, to find out how the different parts of the penal establishments are connected together, and to investigate another very important matter, the confinement of persons awaiting their trial, and the cost of their carriage from one part of the colony to another —a competent man with some administrative ability, who will recommend what is the best way to reduce expense and simplify the question. As to not giving a man his breakfast before starting on the journey to Roma, that is a small matter that might be dealt with by the Colonial Secretary, or Sheriff. My own individual wish on this subject is that we should not appoint a Royal Commission at present; but that, after the Colonial Secretary has had an opportunity of making himself fully acquainted with that branch of the department, a competent officer should be appointed to visit the various establishments in the colony—visit, perhaps, some of the establishments in the other colonies—although I do not think we have much to learn from them—and then what is wanted is an amendment of the law, which is extremely confused with respect to the administration of gaols. I do not think a Royal Commission would elicit any more information than a single officer; they could not, though sitting in Brisbane, do the work that a single officer could do, or find out any more than the Colonial Secretary could find out. It would not be desirable that a Royal Commission should traverse the whole colony, because we should not be justified in incurring so large an expense for the sake of the results we should be likely to get from their visitation. I think the hon. gentleman will do well to withdraw his motion, at any rate for the present. Judging from the results we have obtained by appointing Mr. Hodgkinson to inquire into the question of establishing central sugar-mills, I think a somewhat similar course would be the most reasonable one to follow, and certainly if we had appointed a Royal Commission in that case we should not have got any more information. In the case of a commission consisting of five men, it would probably take five times as long to get their opinion as that of a single man, and in this case I think one man's opinion would be just as valuable as that of several. There are, of course, cases in which the opinion of several is better than that of one, but what is wanted in this case is a correction of the administrative system. I think if the hon. member withdraws his motion at the present time he will find that before the commencement of next session the Government will be in full possession of all circumstances, and will be able to effect such changes as are necessary.

Mr. BAILEY said: Mr. Speaker,—I have taken an interest in this question for the last twelve or fifteen years, and more for the protection of the innocent than for the over-punishment of the guilty. I have made certain investigations at times, and I congratulate the hon. member for Dalby that he has not made out a stronger case, because if he had he would have had to make a number of *ex parte* statements, which might not be quite correct, and which would require a great deal of examination and careful correction before they would be brought forward. A more inhuman system than the system of our police administration can hardly be imagined. It is not worthy of a civilised country. I can quite understand that the hon. member has statements in his possession which he believes to be true and which would seriously compromise the officials of that department if they were made known. I quite agree with him that even a select committee would hardly be good enough to find out the working of this very secret department. Many years ago, I remember Mr. Walter Scott, member for Bundaberg, tried his level best to get behind the scenes, but he failed utterly. I have heard since then of two or three attempts to do the same thing, which have failed in the same way; and it is notorious that certain things happen in a department which, to say the least of it, are not at all creditable. There is a great deal more in this resolution than appears on the face of it. It does not merely point to the fact that the gaols and the lockups of the country should be inquired into, but that an investigation into the whole administration of the department is required. That is what we want—a thorough one. The Governments, one after another, have failed to get at the bottom of that department. They have been unable to trace out the workings of it. We have known from time to time certain wrongs committed. We have known innocent men to have been condemned by that department, and prosecuted, and persecuted. We have known that men who have been in the least degree criminal have been ill-treated—treated almost inhumanly by that department. We have known all that, but yet no Government has taken any steps to remedy it. I have seen myself cases where men's lives were in peril in consequence of the treatment to which they were subjected—and possibly innocent men too. But I shall not make statements of that kind; I will not go into details. What I wish to see is such a commission appointed as will investigate the whole police administration, and then come down with their report and their facts, and induce the Government to take proper action. The Government have been powerless in the past and are just as powerless at the present—unless some inquiry is made such as can only be made by a Royal Commission to investigate the whole administration of the department. I will not go into details of cases; I could go into a great many, but I think it unwise to do so. I will only say that I should like this: that the Government should give them—the department I mean—a day of grace before appointing the commission. Give them, say, six months to put their house in order, and I am sure there will be a great many wrongs remedied before the Royal Commission sets to work.

Mr. HAMILTON said: Mr. Speaker,—The Colonial Secretary said he had expected to hear something stronger from the hon. member for Dalby in support of the motion, but I think the cases he cited, of warders levying blackmail upon the relatives of prisoners in gaol on the ground of showing clemency to those unfortunate persons, is sufficiently strong to justify the House in carrying the motion. At the same time I can bear out his testimony that far stronger evidence might be brought to bear upon the matter if it were considered desirable. I myself could bring forward stronger evidence, but I agree with the hon. member for Wide Bay that it is not desirable to make *ex parte* statements of that kind in this House, although perhaps we may be perfectly certain of their accuracy. I know of one case, which I have heard from credible authority, where a warder forced himself into a house in the Valley and treated one of the females in it in a most brutal manner, and they were afraid to do

anything because the husband of one of the women in the house was in gaol. When the person who was so grossly ill-treated by this warder objected to that treatment he said, "I'll make it hot for So-and-so in the gaol." That is the statement I have heard; I have no evidence in proof of it, but I believe it and put as much faith in it as I would in anything I heard from any member of this House. I might mention other cases and give the names of persons, but it would not be fair to the parties, seeing that they are not in a position to contradict the statement. Therefore I think the allegations which have been made, not only this session but last, regarding the manner in which things are conducted in our gaols, are quite sufficient to demand that an inquiry, either by a Royal Commission or a select committee of this House, should take place without delay. We all recollect the very graphic description given in the *Courier* last year of the Brisbane lockup, and I am very glad to see that that exposure brought forth some alterations for the better in the lockup in Brisbane. Still there are many towns throughout the colony in which I know that those places are in a far worse state than the Brisbane lockup has ever been, and still remain so. Perhaps, however, it might be as well for the hon. member for Dalby to withdraw the motion for a few weeks and see if the Government will do anything in the matter.

Mr. PALMER said: Mr. Speaker,—The hon. the Premier has advised the hon. member for Dalby to withdraw the motion. But he had a similar motion on the paper last year for an inquiry by a select committee; that session passed and nothing has been done, and now, when we have the same motion brought forward, he is requested to withdraw it, probably with the same result—that the same state of things will continue. Occasionally matters crop up showing how things are worked in our gaols and lockups, and while I do not want to plead for the tender treatment of criminals at all, I think they should be treated in a healthy manner—in a manner not to shorten their lives, at any rate. I am very certain that I should not like to have undergone the experiences of that reporter of the *Brisbane Courier* on the night he spent within the Brisbane lockup; and I believe that the Government are really liable for the lives of some of the unfortunate inebriates who are placed in those lockups. I think very good reasons have been shown why an inquiry should be held into the management of the lockups. The Colonial Secretary said he thought more forcible arguments should have been brought forward in proof that an inquiry was necessary. I scarcely think that any proof, further than what we have heard, is necessary. Things crop up occasionally which indicate that in some places buildings are wanted. For instance, there is one gaol in the northern part of the colony for 60,000 people, with an immense territory. The gaol there was originally built for seventy prisoners, but I believe there have been over 150 in it. Then we want a gaol at Normanton. Prisoners there require a good deal more room than they have. For instance, where there is no yard for exercise, and constables are away in the country perhaps hundreds of miles, prisoners are obliged to remain in the lockup the whole of hot summer days. Unless yards are provided and prisoners are allowed to exercise themselves, they will certainly fall away in health. It is not that I want to make prisoners too comfortable, or to make prison life desirable, but as a matter of health it is necessary that they should have proper accommodation. I think it is necessary that an inquiry should be made into the whole of the gaols, reformatories, and lockups of the colony. As to the matter of expense which the Colonial Secretary pleads for, I think the question of expense should never be taken into consideration where human life is concerned. The balance should not be struck in that way at all. It is a matter of necessity that some alteration should take place, and if in the inquiry the much-vexed question of treating innocent people a little better than they are, while under a charge, is considered, I think some good will be done. There is no doubt that innocent persons do suffer all that the criminal classes suffer, perhaps for a considerable time—two or three months—while awaiting trial; and if any alteration or amelioration of the circumstances in which men awaiting trial are placed is brought about, I am certain that a great deal of good will result from such an inquiry. Whether it should be made by a Royal Commission or not I cannot say, but I scarcely think a select committee of this House would be a proper tribunal to make such an inquiry.

Mr. JESSOP, in reply, said: Mr. Speaker,—I must confess that I omitted something when I was on my feet before, which has been mentioned by the Colonial Secretary. I certainly intended to refer to the general management outside the prison, in connection with persons who are committed for trial, or on remand, and so on. I consider, by the reading of this resolution—

> That, in the opinion of this House, it is desirable that a Royal Commission be appointed to inquire into the management of the various gaols, penal establishments, and lockups of the colony—

that it is quite sufficient to indicate that it meant the whole management; what work was being done at St. Helena; what sugar was grown there—what it cost to grow, and what it sold for, and, as we see in the papers, why it was charged so much per ton more than its value? I meant everything in connection with the management of gaols—new buildings and enlargements, and all connected with them. The hon. gentleman referred to the management of prisons. But there are more things to be considered. There is the expense of managing them, and I am sure that it is impossible for the Colonial Secretary to see to all this. Notwithstanding what the Chief Secretary has told us, that this Royal Commission would not have the same effect as an inquiry by one individual, I think, to the contrary, that "two heads are better than one," if there is any truth in the old adage. I do not stand here as champion of the prisoners. I stand here to ask the House to appoint a commission to inquire into everything connected with the gaols and lockups in the colony, as possibly they may bring in a report showing the necessity of altering a great many things. I think, after consideration, that I shall accept the suggestion of the Chief Secretary, and ask leave to withdraw the motion on the promise that he will appoint some competent person or persons to make this inquiry and bring a report before this House. I reserve the right to bring this matter forward again, in case sufficient steps are not taken. I do not bind myself to sit still and let it lie down and sleep.

The PREMIER: Hear, hear!

Mr. JESSOP: In withdrawing the motion, I do so entirely upon the promise of the Chief Secretary that he will have an inquiry held at once, and I think I have accomplished my purpose in getting something done. I beg leave to withdraw the motion.

Motion, by leave, withdrawn.

PUNISHMENT FOR CONTEMPT OF COURT.

The HON. J. M. MACROSSAN, in moving—

That the mode of punishment of the offence known as contempt of court being,—

(*a*) By fine or imprisonment, of which neither the extent of the one nor the duration of the other is settled by law;

(*b*) Unauthorised by statute; and inflicted at the sole discretion of a judge, at times suddenly and spontaneously exercising his authority;

this House is of opinion that a Bill should forthwith be introduced by the Government for the purpose of regulating and limiting such punishment, and of bringing the administration of justice in this respect into harmony with the spirit of constitutional law—

said: Mr. Speaker,—This is a matter of so much importance that I think I cannot speak too seriously upon it to members of this House. I believe that most hon. members at different times have taken it into consideration, and that they also think that the law requires considerable alteration. I am sorry that the matter has not been taken up by some member more able than myself, and who understands the law much better than I do; but it has fallen to me, and I will try and make out a case to induce the Government to take the matter into consideration, and deal with it as it ought to be dealt with. It has always been complained, even during the present session, that the judges have too much power in connection with the matter of punishing for contempt of court, and it seems to me, in looking back over the history of England, that when the people entered upon such great reforms for liberty after the time of the Stuarts, who had such bad judges, they should have done something towards curtailing their power. However, such was not done, and from that time to this the people of England, as well as the people of all the colonies which have sprung from England, have been suffering in consequence of the neglect of the reformers of those days. As the law stands at present the judges have power to punish men who commit offences in the face of the court with any degree of imprisonment that they think fit. They can imprison for life, and so far as I know the operation of the law, if a man is once imprisoned by a judge for contempt of court, there is no power existing in the State to release him. Even the Crown has no power to do so. I believe that most people will admit that punishment for contempt of court, or anything that interferes with the administration of justice in a court, should be in the hands of the judge; but that his power should be defined by law. He should not be able to say to a man who commits a simple offence, "I will sentence you to be detained for twenty years, or thirty years."

Mr. KELLETT: Or forty years.

The HON. J. M. MACROSSAN: Or for forty years, or for any other period. The law should define the amount of punishment which the judge should award for particular offences of that kind. The great objection is that the punishment is indefinite and uncertain, and is capricious in its administration, through, of course, the different temperaments of the different judges; or, as my hon. friend opposite suggested, it is a matter of digestion. There is another class of contempt which should be taken more out of the power of the judges to deal with than that I have already referred to, and that is the contempt which, I think, is called "constructive contempt"—that which newspapers are sometimes guilty of, or gentlemen who make speeches outside the court, away from the court—perhaps 100 miles from it. I think that in cases of that kind a judge should not have power to call a man to the bar and ask him what he has to say for himself, and punish him by fine and imprisonment as well to any extent he chooses. I believe that such cases ought to be indictable, and that when a man commits an offence of that kind he should simply be brought before a jury of his countrymen and tried the same as any man for any other offence. If a man commits a most serious offence, even against the Sovereign—treason—he has the right of trial by jury, and I do not see why an offence which might not be an offence at all, but which the judge considered to be so, should not be tried in the same way. I do not know whether an attempt has ever been made in the colonies to alter the system of dealing with contempt of court. I have not heard of any, or read of any; but perhaps some hon. members may know of some such attempt having been made. I know it was tried in England in 1883, when a Bill dealing with the subject was introduced into the House of Lords by the Lord Chancellor himself. That Bill was favourably received by a majority of the law lords in that House. It went to a second reading and was passed through committee with certain amendments, and was sent down to the Lower House for their approval. I cannot trace exactly what became of the Bill there, but I think it was withdrawn on account of the great pressure of other business not allowing it to be brought on. I traced the Bill so far as to get the names of the six members who, according to the rules of the House of Commons, must attach their names to a Bill. That is the furthest I can trace it. After that I found the word "withdrawn." There is no reason given why it was withdrawn, but as it was withdrawn in the middle of a session, I think it must have been because of the pressure of other business. I do not say that that Bill which passed the House of Lords in 1883 was one that would suit us. It dealt with ecclesiastical courts, and that would not be needed here. What seems strange to me is the unanimity of the judges there in trying to lessen their own authority. They seem to me to have been actuated by very proper motives. Looking at it in that light, I hope the legal gentlemen in this House will be actuated by similar motives to those which actuated the judges in the House of Lords. I do not wish to enter upon any particular cases of hardship which may have been suffered through punishment for contempt. I think it would not be my place to do that here, but I shall read the opinion of one of the lords who delivered a speech on the second reading of the Bill to which I have referred, and I think when hon. members hear that read it will be sufficiently conclusive to cause them to agree to the motion which I have brought forward. The gentleman to whom I allude was Lord Fitzgerald. I think he was an Irish law lord.

The PREMIER: Yes.

The HON. J. M. MACROSSAN: I know he was a member who held a very distinguished position in the House of Lords.

The PREMIER: He was one of the life peers.

The Hon. J. M. MACROSSAN: He mentions several instances of hardship which occurred in England at different times, and goes on to say:—

"No doubt these cases would not now be followed. In modern times this power of commitment had been confined solely to articles in the newspapers which were thought to interfere with the administration of justice. The doctrine of constructive contempt was one which he was not inclined to favour. It appeared to him that if dealt with at all it should be dealt with on some broad foundation. The present course of proceedings was exceedingly objectionable. If an article in a newspaper

appeared which was alleged to be such a contempt, and which was one from which an inference could be drawn that it was intended to interfere with the administration of justice, the party was called up summarily, and the matter inquired into, the judge being at once judge of the law, of the fact, of the intention, of the sentence, and his decision was without any power of review. That was most unsatisfactory, and there could be no doubt that the doctrine had a tendency unduly to fetter the freedom of the Press, and in that light was important to them all. No doubt there was a difficulty in dealing with it; but he would rather see the doctrine done away with altogether than continue to exist in its present form. There was no such law in any of the American States. The *New York Code* said:—

"Every court of record may punish summarily, disorderly, contemptuous, or insolent behaviour in the immediate presence of the court tending to interrupt its proceedings, and impair the respect due to authority, but it could not punish for publication out of court, where the remedy was by indictment; and he believed such a practice as ours of summary punishment for constructive contempt did not exist in any other country. Its effect was to enforce silence on the part of the Press, where the public interest required the fullest publicity and the closest criticism of what was going on. He had such an objection to the doctrine and practice that he should prefer being guided by the maxim, "*Nil falsi audeat nil veri non audeat dicere.*" He need not say that constructive crime was in all cases contrary to the genius of the English law, and that in such cases it was usual to interpose a jury for the protection of the subject. The objections to the present system were that it was uncertain, undefined, and depending on capricious discretion. There would be a great difficulty in defining constructive contempts; but he would suggest that it might be hedged round with some protections, and that in all cases a right of appeal should be given to the court of appeal. The effect of that would be to render the judges more cautious, while it would leave them free in their action, and, above all, in time a series of decisions would be built up which would regulate and control the discretion of the judges in the exercise of their summary power."

That is the opinion of a judge who sat upon the Irish Bench for over twenty years, and, as he said himself, "in very troublesome times." I think an opinion such as that, coming from a gentleman with such great experience as Lord Fitzgerald had, ought to be very strong and conclusive with this House. I do not think we could have a better time for taking up this matter than exists at present. We have at the head of the Government the leading lawyer of the country, and, I may say, almost the one in whom every one of us would confide a work of this kind more than any other person we know in Queensland. Therefore, if the decision of the House is that my motion should be carried, I think that hon. gentleman will be quite justified in taking the matter up and applying his great ability—his great legal ability and intelligence—in procuring a remedy for such a grievance as this. There can be no doubt that it is a grievance, and it must be a great grievance when this law lord, from whose speech I have quoted, says that no such code exists in any other country, and he says distinctly it does not exist in any of the American States. We cannot go far wrong by following their example. I am certain we cannot go wrong, and by defining the punishment, and by curtailing the power of the judges in this respect, we shall certainly be going in the right direction. We all admit, no doubt, that the judges should have authority to protect themselves. Every court of record should have such authority, but the authority should be defined in such a way that it could not be exercised to the detriment or serious injury of persons who may commit very small offences. A fine of £500 or three months' imprisonment was the extreme limit under the Bill I have spoken of as having passed the House of Lords. I think it unnecessary for me to state what ought to be the punishment. That should be left entirely to the discretion of the Government, if they bring in a Bill dealing with the subject. I beg to move the motion standing in my name.

The PREMIER said: Mr. Speaker,—There is no doubt there are some anomalies in the law so far as regards punishment for contempt of court; but it must be borne in mind that the subject is rather a difficult one to deal with. There are many branches of the exercise of that jurisdiction called punishment for contempt of court, which the slightest consideration will show to be essential to the conduct of the business of any court. No court of justice could carry on if its proceedings were liable to be interrupted, and it had no power of immediately visiting the offender with punishment. That is an essential condition of its existence. There are other matters with respect to which the reasons for the power do not present themselves to the mind at first sight as being so strong as that, especially such cases as the hon. member specially referred to—publications in newspapers. That is an act done away from the court altogether, possibly at a considerable distance from it; but even then a little consideration will show that the subject is more difficult than the hon. member seems to think. It is quite conceivable that the course of justice might be entirely perverted by an article published in a newspaper. Suppose a criminal trial were going on—or a civil trial for that matter, or any case involving the status, rights, or character of an individual—and an article were published in a newspaper commenting strongly on one side of that case. That would be as serious an attempt to interfere with the administration of justice as bribing the jury. It would be an act committed beyond the court, but it would be just as serious a blow to the administration of justice as the other, and its consequences might be much greater—much more serious; the jury might be intimidated from giving a verdict. Things of that kind have been attempted before now in the history of the world, and a thing like that might be done just as easily in the Press as by personal coercion. Take, again, the case of the Tichborne claimant in England. While the jury were sitting trying him—he was on his trial for perjury, and as that was a misdemeanour he was let loose every day—he went about holding public meetings and denouncing the judge and jury who were trying him. That, of course, was contempt of court of precisely the same character as publishing articles in a newspaper with the object of interfering with the trial of a case. I mention this, Mr. Speaker, to show that although at first sight it seems rather absurd that the court should have summary power to punish a man for publishing an article in a newspaper, or making a speech relating to a case, yet the matter is not so simple as it seems. It is essential that while a case is going on there should be no attempt made to interfere with a fair trial. Coercion may be accomplished just as much by writing or speaking in the absence of the person intended to be coerced, as by threatening violence to him personally; in either case the essence of the offence is the same. The hon. member quoted the opinion of Lord Fitzgerald—who is a very learned law lord, one of the three life peers appointed to form part of the court of appeal in the House of Lords—stating that he did not consider the power was necessary. In many cases it would not be necessary; in many cases where a man had committed an offence of that kind he might be tried, convicted, and punished; but the advantage of the summary power of punishment for contempt is that it stops the continuance of the offence. Suppose a case were going on, as I suggested, and an attempt were made to influence or coerce

the jury by public meetings or articles in the Press. If it could only be punished by indictment, they could go on doing that for perhaps six months, at any rate until the trial was over. Where the jury are locked up all night, of course they would not get newspapers; but where they are not—as is very often the case—day after day during the progress of the trial they might have dinned into their ears arguments and even threats, ordering them to find a verdict in a particular way. The necessity for summary power in a case like that is that the thing must be suppressed instantly, otherwise punishment would be of no use. There are things for which punishment is inadequate; punishment does not do away with the evil effect. The effect of a thing of that kind is irreparable, and certainly there ought to be a power to stop it. I am not prepared to say what would be the best thing to do from that point of view. Lord Fitzgerald, as the hon. member said, thought the power to punish constructive contempt in this way was unnecessary. He pointed out very truly that constructive crime of any kind was contrary to the genius of the English law. That is perfectly true; the difficulty, however, is to distinguish the cases which everyone will agree should be punished summarily—I am quite sure everyone will agree that in a case such as I mentioned just now there ought to be a power to summarily stop interference with the administration of justice—to distinguish between these cases and some others which are less properly treated as contempt of court. For example, where a man in perfect innocence has published an advertisement in a newpaper denying a statement that his title to a patent was not good, and announcing his intention to take legal proceedings to establish his rights, that has been treated as contempt of court. Cases of that kind are absurd, still they fall technically within the rules laid down in one court or another as being an improper attempt to influence the course of justice; as if it were possible that a judge about to try a case would ever see the notice or pay the slightest attention to it. Lord Coleridge, who followed Lord Fitzgerald, did not agree with him. He referred to another kind of constructive contempt, not interfering with the administration of justice in the face of the court—cases of threatening witnesses outside. Those cases also ought to be summarily punishable. Lord Bramwell, however, to whose opinion the very greatest weight is to be attributed, did agree with Lord Fitzgerald. I see he mentions the case I have referred to—discussing the merits of an invention while the trial was going on. I am not quite prepared to say what it would be best to do in cases of contempt outside the court—articles in newspapers or public meetings tending to disturb the due course of justice. I quite agree that *primâ facie* there appears to be an objection to any action being punished summarily in that way—the same individual being both accuser and judge. It is an anomaly, and the law is capable of improvement; but the subject is one of considerable difficulty. There are two other classes I wish to refer to—first, contempt committed in the face of the court, interfering with the administration of justice; and, secondly, contempt in not obeying an order of the court, when imprisonment is used for the purpose of compelling obedience to the order. Now, with respect to the first—contempt in the face of the court—I will read a few words from "Blackstone," edition of 1803. On subjects of this kind probably this is as good an authority as you can get in the English language :—

"The contempts that are thus punished are either *direct*, which openly insult or resist the powers of the courts, or the powers of the judges who preside there; or else are *consequential*, which (without such gross insolence or direct opposition) plainly tend to create an universal disregard of their authority. The principal instances of either sort that have been usually punished by attachment are chiefly of the following kinds:—1. Those committed by inferior judges and magistrates, by acting unjustly, oppressively, or irregularly, in administering those portions of justice which are entrusted to their distribution, or by disobeying the king's writs issuing out of the superior courts, by proceeding in a cause after it is put a stop to or removed by writ of prohibition, *certiorari*, error, *supersedeas*, and the like. For as the king's superior courts (and especially the court of king's bench) have a general superintendence over all inferior jurisdiction, any corrupt or iniquitous practices of subordinate judges are contempts of that superintending authority, whose duty it is to keep them within the bounds of justice. 2. Those committed by sheriffs, bailiffs, gaolers, and other officers of the court, by abusing the process of the law, or deceiving the parties, by any acts of oppression, extortion, collusive behaviour, or culpable neglect of duty. 3. Those committed by attorneys and solicitors, who are also officers of the respective courts, by gross instances of fraud and corruption, injustice to their clients, or other dishonest practice. For the malpractice of the officers reflects some dishonour on their employers, and, if frequent or unpunished, creates among the people a disgust against the courts themselves. 4. Those committed by jurymen, in collateral matters relating to the discharge of their office: such as making default, when summoned; refusing to be sworn, or to give any verdict; eating or drinking without the leave of the court, and especially at the cost of either party; and other misbehaviours or irregularities of a similar kind; but not in the mere exercise of their judicial capacities, as by giving a false or erroneous verdict. 5. Those committed by witnesses: by making default when summoned, refusing to be sworn or examined, or prevaricating in their evidence when sworn. 6. Those committed by parties to any suit or proceeding before the court: as by disobedience to any rule or order made in the progress of a cause; by non-payment of costs awarded by the court upon a motion; or by non-observance of awards duly made by arbitrators or umpires, after having entered into a rule for submitting to such determination."

Many of these rules, of course, have fallen into desuetude, but they were in force at that time. Then he points out that—

"The process of attachment for these and the like contempts must necessarily be as ancient as the laws themselves; for laws without a competent authority to secure their administration from disobedience and contempt would be vain and nugatory. A power, therefore, in the Supreme Court of justice to suppress such contempts by an immediate attachment of the offender results from the first principles of judicial establishments, and must be an inseparable attendant upon every superior tribunal."

I will not read any more on the subject. What I have read gives a general idea of the class of cases which the courts have held to be punishable as contempt. Then there is what is called process of contempt for enforcing an order of the court. That is properly and justly applicable in cases where a man has refused to do what nobody can do for him. I think myself that when an order of the court is to do an act which, if the man will not do it, someone else can do it for him—such as conveying property or anything of that kind—it is ridiculous to put him into prison for contempt. But there may be cases in which a man, by refusing to obey the order of the court, may do an irreparable injury; and the only way to get at him is to take his body. Supposing a man secretes a document of enormous value, and declines to deliver it up or to say where it is, I for my part would keep him in gaol until he did, if no other remedy was available. But cases of that kind do not often happen. Those are the various kinds of contempt. So far as punishing contempts committed in the face of the court are concerned, what is wanted is not, I think, to define them, but to limit the power and extent of punishment which may be inflicted. That was attempted in the Bill introduced into the House of Lords by Lord Selbourne. It is not desirable that there should be unlimited power of punishment for

offences which after all are but of transient effect. It is surprising to find how seldom the more experienced and learned of the judges in the old country have occasion to resort to that mode of punishment. In the debate quoted from, three judges of large experience took part, and each of them takes occasion to say how often he has had to do so. Lord Fitzgerald, who had been on the bench for twenty-two years, embracing periods of great public excitement, says he never had occasion to exercise that power, but he had always felt that the knowledge of the existence of the power had enabled him to maintain the order and dignity of the court. Lord Coleridge, who has been a judge for a good many years, has never imprisoned but one man for contempt, and that was only for twenty-four hours. Lord Bramwell, who was on the bench for twenty-six years, had only one case, and that was a boy who, when hearing evidence that he did not like, persisted in expressing his disapprobation so loudly that he was obliged to take notice of it. That is the experience of some of the most eminent judges of the day. To say that Lord Bramwell is the most eminent judge of the day would perhaps be saying too much; but I do not know anyone who is more eminent. I do not think the power of punishing for contempt is really very much abused, although sometimes we hear of singular cases. I heard the other day, in one of the Australian colonies, of a witness being suddenly sent to gaol for forty-eight hours because he had not spoken loudly enough. Mistakes of that kind will arise, but they cannot be reached by legislation; we must trust to the discretion of the judges. The law on the subject is capable of being improved very much in the direction of the Bill introduced into the House of Lords in 1883. In cases of minor contempts a maximum punishment might very properly be fixed. With respect to what is called process of contempt for enforcing an order of the court provision is attempted to be made in that Bill. With respect to interfering with witnesses or jurymen, that certainly might be punished summarily. But with respect to the others I confess I do not see my way at present as to what is the best course to adopt or a definition that would be satisfactory. For the reasons I have given there must be a power of stopping such an outrage as that committed in the Tichborne case, and to stop it at once. What would be the best way of doing so I cannot pretend to say without much fuller consideration than I have yet been able to give to the subject. If the hon. member would omit the word "forthwith" from his motion, I do not know that I should have any objection to it. I do not think the House can fairly say that it is the duty of the Government "forthwith" to bring in a Bill dealing with the subject. How many people have thought about the subject up to the present time? No one, so far as I know, has been able to deal with it in a satisfactory way. I do not see why the Government should be called upon at once forthwith to do anything of the kind. If the hon. member will so alter his resolution as to make it an instruction to the Government to give the question full consideration, and attempt to put this particular unwritten law into the form of an Act of Parliament, I shall have no objection to it.

Mr. CHUBB said: Mr. Speaker,—This is not only an interesting but also an admittedly difficult subject, and it has given food for consideration for many years. I think the attempt made by the Lord Chancellor in the Bill introduced in the House of Lords was probably the only way in which they could attempt to deal with the substantial part of the question. They did not attempt by any means to define what contempt of court should be, and I believe that would be a most difficult thing to do; I believe it would tax the ingenuity of very able lawyers to define the various cases which should or should not be considered contempt of court. If we were to amend the law as it at present stands, with regard to the substantial question of limiting the powers of judges as to the amount of punishment they should inflict, that would be a step in the right direction; and the short road that the Lord Chancellor had of dealing with the subject was to propose that in no case should the period of imprisonment exceed three months, or the fine exceed £500. Of course we need not follow these figures; that is, however, a matter for consideration, but that was the proposition made there; and then there was some modification in what have been very well stated by the Premier as minor offences of contempt. The hon. gentleman has given a very good description of the offence commonly known as contempt of court as it mostly affects the general public; as, for instance, in the case of contempt committed in the court, by insulting the court, or of contempt committed outside the court by newspaper articles, speeches, and letters. The right of judges to punish for contempt is claimed by lawyers to have existed from the date of Magna Charta. I think it was in the Onslow and Whalley case that the declaration of Magna Charta that a man is not to be punished except by judgment of his peers, or by the law of the land, was referred to, and it was claimed that there was an inherent power in British courts—that it was within their jurisdiction—to deal unrestrictively with cases of contempt in order that the law of the land should be administered fearlessly and impartially; and unless they had the most unrestricted power, as it were, to carry out their duties the administration of justice would be, or might be, much impaired. I believe it is conceded that all judicial tribunals should have the necessary powers to carry out their duties, otherwise they would not be performed efficiently. There is no doubt that a judge dealing with cases of contempt of court does to a certain extent infringe upon one of our maxims, that no man shall be judge in his own case. Although it is contempt of court, contempt of the authority and majesty of the law, and not personal contempt of the judge, it may sometimes be looked upon in that way; that from some personal feeling the judge might perhaps inflict a more severe punishment at the moment than he would do if he had twenty-four hours for reflection. The most notable recent cases of contempt were in the Tichborne case which has been referred to by the Premier, where Mr. Onslow and Mr. Whalley were each fined £100, and where Mr. Skipworth, a barrister who went about the country making speeches, was fined £500 with a term of imprisonment. The court said that Mr. Skipworth, being a barrister, ought to know better, and they would not spare him. There is one case on record in which a judge punished the sheriff, fining him £500, for thanking the grand jury for their services, on the ground that that was interfering with his functions; and there is another where the judge fined the sheriff a large sum for not bringing the javelin men to meet him on circuit. It was the privilege of the sheriff to entertain the judge at his own expense, and he thought the javelin men were unnecessary and therefore did not bring them. I remember reading a case in which a man when conducting his own case was guilty of some contemptuous expression and was fined £20. The case went on and after some time he said something more and was fined in a further sum of £40, and later on he was fined another £40, making a total fine in that one case of £100. Of course, this subject

might be discussed for a very long time, and the more we talk about it the more difficult we may find it to deal with. No doubt, what really does affect the public mind is the apprehension that if they unwittingly commit contempt of court, by publishing a letter or an article which infringes upon the law, they become liable to an indefinite punishment; they do not know to what extent they will be fined, or for how long they may be imprisoned. In some cases the fine or imprisonment may be totally disproportionate to the offence. But, with regard to offences committed in court, there must always be power in the hands of judges for dealing promptly with the offenders. It is difficult to say how or to what extent that power should be limited, as cases of contempt vary so much. Lawyers know that many grave contempts of court require extreme stringency, and many instances might be given of what in olden times was considered very high contempt. At one time drawing a sword in the king's court was regarded as such a heinous offence that it was punished by striking off the hand of the offender. But there is no use multiplying illustrations. We have the assurance of the Premier that this difficult matter will receive the consideration of the Government, and possibly next session a Bill will be introduced, dealing with the subject, which will give satisfaction to the House and the country. I am quite sure that we have nothing to complain of with regard to our judges; at any rate, that is the conclusion to which my observation leads me. The cases cited in the debate on the Bill introduced in the House of Lords show that one British judge who had been on the bench for twenty-two years never had occasion to exercise the power of the court to punish for contempt; that another judge had only to use it once, and then gave a man twenty-four hours; and that another whose experience is that of a lifetime, Lord Bramwell, only once exercised the power, and that in the case of a boy. Of course, we never know what may happen. The unexpected always happens, as the French say, and it is better, perhaps, before the unexpected does happen that some provision should be made in order that people may know what the punishment for contempt is. I believe this is the only offence known to the law for which the duration of the punishment is not fixed, and therefore I think it would be as well that this colony should set the lead, and take the offence out of the range of common law, and make it definite, at any rate, so far as the punishment is concerned. We shall then have a law in force here which will at least limit the amount of punishment that may be inflicted either by fine or imprisonment.

The ATTORNEY-GENERAL (Hon. A. Rutledge) said: Mr. Speaker,—After what the Chief Secretary has said, it is not necessary for me to say very much. The question of the power of the judges to punish for contempt of court has been discussed a great many times, and in a great many places. It was discussed with a great amount of acerbity in New South Wales a few years ago, after the proprietors of the *Evening News* had been brought into the Supreme Court to answer for contempt in publishing certain gross reflections upon one of the judges there, and the judges sentenced the proprietors to pay a fine of £250. Public meetings were held, and great indignation was shown, and I believe a promise was exacted from the Government—which promise was to a certain extent fulfilled—that a measure should be introduced for the purpose of limiting and defining the powers of judges in regard to punishment for contempt. I think the Bill was introduced into the Legislative Council there by the Hon. Mr. Dalley, but I do not think it ever got out of that Chamber. Arguments were adduced for and against the measure, but I think it was abandoned, the general feeling being that it was better to leave matters as they were. I did not understand the hon. member for Townsville to complain of the existence of the power to punish for cases of contempt which occur in court, which is a power that everyone must admit ought to be possessed not only by judges of the Supreme Court, but also by judges of inferior courts. He seemed rather to complain of the power which judges have to punish by attachment for disobedience of orders of the court; and probably something might be done in that direction; but it is very much easier to condemn the existing state of things than to find a remedy that would not be worse than the disease. Suppose it were the law that a newspaper editor who published a scandalous article reflecting on the integrity of a judge, accusing him of gross partiality and corruption should be charged in the ordinary way on an information laid by the judge, then the jury, after a tedious trial, might acquit the defendant or disagree; and that would be a very unsatisfactory way of vindicating the honour and purity of the court. If they should acquit the defendant that would amount to an endorsement by the jury—who represent the public—of the reflections made upon the court. Probably that might not, in the estimation of some people, be a very bad thing, but as long as the judges are charged with the administration of justice it is absolutely indispensable, not for the purpose of preserving their personal dignity, but for the high and sacred purposes of justice, that there should be no license whatever in regard to reflections on or interference with the administration of justice. There is no doubt that the power has in some instances been abused, but I think the instances are very few. The instances adduced by the hon. member for Bowen have been those appertaining to a bygone age, and when we know that Lord Fitzgerald, Lord Bramwell, and other eminent judges, through the course of many years on the bench, have found it necessary to use the power only very sparingly, I think the apprehensions of the abuse of this power ought not to be very serious in the minds of hon. members. There has been no illustration of it in this colony, and unless the hon. gentleman wishes to guard against something possible in the future rather than found his apprehensions on anything that has taken place in the past, I can scarcely see the necessity at the present juncture for a motion of this sort. There is no doubt that the reason why so few attempts have been made to interfere with the administration of justice is because the power resides with the judge to punish for contempt; and the very uncertainty that has existed as to the punishment has had a far more deterrent effect than would otherwise have been the case. Suppose the punishment were limited to a fine of £500, even in such cases as at present allow of the arbitrary exercise of judicial power: I can conceive of a very rich man who would be prepared to pay £500 for the luxury of indulging in a wholesale contempt of court. Instances have occurred in which men have been prepared to pay a fine of £5—that being the limit fixed by our law for assault—just for the sake of giving his opponent a good thrashing; and if a man is rich enough—if £500 is of as little account to him as £5 to some other men—I can conceive of cases in which a man would be willing to pay £500 for the satisfaction of indulging in a very extensive contempt of court. Though I have pointed out these things, I do not intend to defend—nor do I defend—the usurpations of power which have taken place—because, though clothed with the power, it is usurpation when

that power is abused—in some part of the British dominions; but in the great majority of instances the good sense which ordinarily characterises British judges prevents them from abusing the power. And in these days, though the Press is amenable to the jurisdiction of the court if guilty of contempt, we know that judges are very powerfully affected by the Press. And so are all classes of society. There is no person in any British community, from the Sovereign on the throne to the very humblest holder of place, who is not to a certain extent made to feel the power of the Press, and who is not better for the knowledge that he is constantly exposed to Press criticism. And the judges are just as much exposed to criticism as the humblest in the land, provided that the criticism be fair. I do not think the right to do more than that is or ought to be demanded. If the criticisms on the actions of judges are malicious the offenders are deserving of punishment; but the fact that we have a Press that exercises a careful and keen vigilance on the actions of judges as well as those of other people—the knowledge of that on the part of judges tends in this nineteenth century to prevent them, even if they were so disposed, from being guilty of abuses of power. Instances of the abuse of power by judges in this colony are unknown, and in the other colonies the advances towards what might be considered the abuse of power have been so few and far between, that it is not desirable to introduce a law fixing rigid limits by which the course of justice may in some cases be impeded.

Mr. W. BROOKES said: Mr. Speaker,—I confess to have listened to the Attorney-General with a good deal of dissatisfaction. Generally I am pleased to hear him, but certainly I do not think I can agree with him on this occasion. Well, now, as an ignorant layman, it might be just as well if I said a little upon the question. We have heard the three lawyers of the House, all gentlemen of ability, and it may be just as well that I should give an opinion based upon my experience of men and things during my life, and, of course, as a considerable part of my life has been passed in Brisbane, my opinion will be based upon what I have seen take place in Brisbane. Perhaps I had better begin by stating the opinions that I have formed from what I have read in the English papers. Now, it is quite a common thing to see in the English papers very free comments upon the action of the judges. The judges of England are not by any means the pure-minded, immaculate persons that they assume to be, and very often it is seen that there is a distinct bias in their decisions. One instance occurs to me where Lord Coleridge punished a newspaper proprietor for libel, and upon the sentence I remember seeing a most scathing article written. The judge, however, did not punish that for contempt, although perhaps it was deserving of punishment, but I have no doubt he would have taken notice of the article if he dared. Even in England judges commit errors, and are not always all that they ought to be. The case mentioned by the Attorney-General seems to be capable of being pushed to an absurdity. He spoke of the editor of a newspaper writing a very strong article against a judge, and of the editor being brought before a jury. Now, that is what the mover of this motion proposes, or, at all events, it has been spoken of by members who suggest that the offence should be indictable. I think it ought to be. The Attorney-General supposed it to be indictable, and the editor of the newspaper brought before the court and tried by a jury; and he supposed the jury were unable to agree or acquit the prisoner, and he thinks that in that case the dignity of the ermine would be tarnished. I do not think so. I think the ordinary run of cases would go to show that if an editor, accused of malice, was brought before a court and tried by a jury, it is highly improbable—practically impossible—that the jury should let that man off. I do not think that would happen once in a thousand years. The jury would be very well able to distinguish between what was right and what was wrong so far as that was concerned. Now, this is the point, Mr. Speaker: The Attorney-General thinks that if the editor got off scot-free, that would leave the judge in an improper position. Well, I do not think so, for this reason: The Attorney-General says it is important that a judge should be in an unassailable position, but I do not think so. It is quite possible that a criticism written upon the action of a judge may be perfectly right, and the editor may be fully justified in everything he said. It is quite clear that while this matter is surrounded with difficulties, there must be some way out of the difficulty, but I very much question whether the gentlemen of the long robe will ever find their way out of it. I give them credit for good intentions, but at the same time their bias is to stand by the judge, and to a certain degree I respect them for that. I would prefer to see the power of the judges limited. To say that a person would really insult a judge—spit in his face, or hit him a blow, simply because he could afford to spend £500 in such an amusement—why, sir, I do not regard that as any argument at all. I have seen in Brisbane—I know nothing of what has taken place elsewhere—but I have seen instances here where a judge has behaved in a most extraordinary manner on the bench; there can be no doubt about that, and it will not be denied by anybody. Then there is another matter, Mr. Speaker. This is a very difficult question, but I will ask the hon. member for Bowen, whether a judge cannot be committed for contempt in his own court? I think he can, and I may quote an instance in which I think he should have been. Here is a man tried for cattle-stealing before a jury. The judge sums up, the jury retire, and after a while bring in their verdict, "Not guilty." The judge holds up both hands, and says, "Thank God that is not my verdict!" and turning upon the innocent man, says, "Get down out of that, you d——d scoundrel." Now, that only shows what will and may occur. I shall cordially support the motion before the House.

Mr. FOXTON said: Mr. Speaker,—I do not intend to occupy the time of the House at any very great length; but I must say that I have a considerable amount of sympathy with the spirit of the motion of the hon. member for Townsville, though, for various reasons which I shall give, I do not see my way clear to voting for it in its present form. The Chief Secretary has given a number of instances in which contempt of court may occur which probably do not present themselves to the ordinary lay mind. A layman usually imagines contempt of court to be an offence committed by a person either in the face of the court or through the Press reflecting upon the conduct of or indulging in insulting expressions towards a judge. Now, there are many others; and amongst them I think the most important instance is that of contempt for disobeying the orders of the court—for instance, an injunction. An injunction may be issued restraining a man from infringing the rights of another and doing damage to his property. Every hour he continues to trespass he may be doing irreparable damage to the property, and it is necessary that some strong arm should be able to step in and stop that person from doing the injury. For that purpose the court may issue an injunction; it may be served upon him, and the most

effective way of compelling obedience to the injunction is by continuing the law as it stands at present—that any infringement of the injunction shall be considered a contempt of court. It is in reference to contempt of that nature that there is a great deal of force in what fell from the Attorney-General. For instance, suppose £500 to be the limit of a fine to which a man might be subjected for contempt of court, many instances might occur in which large interests are at stake in which it would pay a man to continue his trespass. For example, he might be getting gold out of a very rich claim. Every hour which he continued to work, in spite of the injunction, might be of the utmost importance to him, and it might suit him to pay any fine which might be named in the statute as the limit of the penalty; so that there is a good deal in what fell from the Attorney-General in reference to that. Supposing you put a limit of £500, and say imprisonment for twelve months or two or three years——

The ATTORNEY-GENERAL: Say three months.

Mr. FOXTON: Well, say three months; any period will do for the purpose of my argument. In ninety-nine cases out of a hundred, that limit might be an extravagant punishment—it might be extravagantly excessive for an offence, and yet it would remain with the judge to decide how far he should go within that limit for the most trifling offence. Consequently, in the vast majority of cases, to put a limit to the fine or extent of imprisonment would in effect be of very little value at all. A hot expression used towards a judge in the heat of advocacy would subject the man to the extreme penalty of, say, three months' imprisonment, whereas, as the law stands at present, no judge would dare—no matter what his failings, humanly speaking, might be—no judge would dare to keep a man in durance vile for such a period for a mere trifling offence, notwithstanding that there is no limit at the present time. Then, again, if you define what contempt shall subject a man to summary punishment and what contempts it will be necessary to proceed against as ordinary offences, it becomes necessary for the judge himself to decide at the time he takes action in the matter whether the offence comes in the one or the other category. You must rely upon the discretion of the judge to a great extent. As far as I can see there is only one way in which the present law can be remedied, and that is by permitting it to remain as it is at present — putting a limit if it be desired, although, as I have pointed out, there is very little value in it—and allowing the person who has committed the contempt to immediately appeal to a higher tribunal to decide first of all whether he has been rightly committed, and, secondly, what the extent of punishment should be. That appears to be the only way in which the matter can be properly and fairly dealt with. That being so, every committal for contempt, except by the Supreme Court in banco—that is, the three judges sitting as the Full Court—would be subject to appeal to the Full Court, where there would be the safeguard that three judges would be sitting together in open court before the eyes of the public. I think it may be taken for granted that no three judges having to consider a question of contempt, brought before them on the spur of the moment, would inflict a penalty which could in any way be stated to be the result of personal feelings. The fact of there being three judges sitting together would be a sufficient safeguard against that. The hon. member for North Brisbane twitted the Attorney-General for his suggestion that it might be worth a man's while to pay a large sum of money for the purpose of indulging in contempt, and instanced the case of a man spitting in a judge's face or giving him a blow, but that is not the sort of contempt a man would think it worth his while to pay £500 for indulging in. It might be worth his while to infringe an injunction to prevent him dealing with a very valuable property, and to pay the utmost fine or undergo the longest period of imprisonment in order to do so. I do not see how the law as it stands at present can be remedied except in the direction I have suggested, and if a Bill be brought in for that purpose I shall give it my hearty support. I do think that no set of men are more liable to be committed for contempt or are placed in positions in which they are more likely to do that which will bring them into contempt than lawyers themselves, owing to the fact that advocates are continually in contact with the court.

The HON. J. M. MACROSSAN: "Familiarity breeds contempt."

Mr. FOXTON: I am not saying that an advocate has a contempt for the court, but let hon. gentlemen imagine a case where an advocate has what is commonly called "a bad case," and the court is against him. He feels, possibly, that he has a good case, and warms up to the subject, and feels that his client ought to win. Very likely in the heat of his advocacy he may indulge in language which in cooler moments he would not; but he is liable to be committed for contempt of court. The court cannot satisfy both sides, and one or the other must be placed in a position in which he is more likely, unless he can restrain himself, to be committed for contempt than any other man. But notwithstanding that, I am sure that the members of the legal profession are the very last who desire that the powers of the judges to commit for contempt of court should be curtailed in such a way as to limit them to any very appreciable extent. No men know better than the men I have spoken of that the possession of the power of committal for contempt is the real secret of the maintenance of order in the courts, and the regular transaction of the business before them. For these reasons I am unable to support the resolution of the hon. gentleman as it stands at present, because it appears to me to be an instruction to the Government to bring in forthwith a Bill for the purpose of "regulating and limiting the punishment for contempt of court, and bringing the administration of justice in this respect into harmony with the spirit of constitutional law." That is very nice language, but at the same time I do not see my way to vote in such a manner as to give such a direction to the Government. It is a subject which has so far not received a very great amount of attention in this colony, or, so far as I am aware, elsewhere, for the simple reason that, with the exception of certain isolated cases, one of which the hon. member for North Brisbane has instanced, and which has its grotesque feature, the power of a judge to commit for contempt has not pressed hardly upon the public in any way, or has been injudiciously or tyrannically exercised.

Mr. NORTON said: Mr. Speaker,—I am one of those who are very much disposed to support the motion now before the House. I do not think for one moment that the hon. member for Townsville intended that the House should direct the Government as to what it should do. His object was to get an expression of opinion, and I think that as we have a promise from the Chief Secretary that he will do all he can in the matter, it is as much as can be expected. The hon. member

who has just sat down said that lawyers are much more liable to be committed for contempt of court than laymen. I do not know whether familiarity with a court makes them more liable or not. They may wish the judges to have full power as regards themselves; but we laymen are prepared to be dealt with as lightly as possible, and if, as the Attorney-General said, lawyers liked "indulging in the luxury" of flying in the faces of judges, the judges should have full power to deal with them. Seriously speaking, I believe it is the case that lawyers are more liable than laymen to exceed the bounds of propriety in the courts. I do not know that I have seen many instances where this has occurred in the Supreme Court; but certainly in the inferior courts they take very great liberties with the gentlemen who preside, and who have not the full power to deal with them that the judges have; and I infer from that that if these powers were taken away from judges of the Supreme Court, of dealing with them smartly, they would take as great liberties in that court also. It appears to me that the liability to use high words proceeds rather from the judges themselves than from witnesses. I find that judges not unfrequently make very hot remarks —I do not say in this colony alone, I do not refer to any place in particular; but anyone who looks through the cases that come before the courts in the different colonies will find that the judges come down very smartly upon witnesses sometimes for very trifling offences indeed, and I think that they ought not to do so. Reference has been made to the learned judges at home. There are many eminent gentlemen there who have themselves expressed the opinion that some curtailment of the powers of judges ought to be made. That is very true, and you must remember, Mr. Speaker, that at home there is a much larger number to select from in making these appointments. The judges at home are as a rule very eminent men, and there is a very large body of men of learning and discretion to choose them from. I say it without feeling any bias towards the gentlemen who are appointed out here; but there is a greater likelihood of suitable men being appointed in the old country than there is in the colonies. I believe that in Queensland we have in the Supreme Court judges whom we have every reason to be proud of; but at the same time they have faults. We are all liable to err, and I quite agree with the hon. junior member for North Brisbane that judges have as much human nature about them as other people, and are as liable to the same faults, and that they want checking as much as anyone else. Of course, I say that with all due deference to the judges; I do not refer to them individually. Everyone will admit that the subject before the House is one of very great importance and interest, and I do not suppose that anyone who has given thought to it will venture to say that it is one that should be settled without a very great deal of consideration; and however much it may be turned over, and however much we may attempt to deal with it in a proper spirit, I do not suppose anyone will venture to say that it is possible to bring in an enactment that will give anything like the satisfaction that the public generally would like to have. I believe it is impossible to define the power of the judges in many cases, but I do think, as the hon. member for Carnarvon suggested, that there might be a court of appeal, so that those who are unfortunate enough to be committed for contempt by a judge might have some other authority to deal with them than the judge by whom they were committed. What that court of appeal should be it is somewhat difficult to say. The hon. member suggested that the three judges might be the court of appeal, but then there might be a fellow-feeling among judges. I think it possible that if the three judges formed the court of appeal each one might feel a sort of sympathy with his learned brother, and might not view the matter in quite as serious a light as the general public or the unfortunate person committed for contempt. I believe it possible to construct some other court with a presiding judge that might deal with such cases. I am not prepared to say what that court should be, but the hon. gentleman at the head of the Government might devise some scheme for a court of appeal. The hon. member has great ingenuity in that respect, and he might like to exercise it. I hope that in dealing with this matter the Premier will give it his fullest consideration, and see if he cannot devise some means of limiting the power of the judges under certain circumstances. I think the lay members of the House, even if they do not say anything about the subject, feel that it would be well if the judges' power in this matter was a good deal limited. I know there is a common feeling inside and outside the House in respect to that. If an expression can be obtained from the Premier that he will endeavour, as soon as possible, to bring in some measure having for its object the object which the hon. member for Townsville has at heart, that will give satisfaction. The hon. member, I am sure, will be prepared to accept that instead of attempting to press his motion to a division, as I am quite sure he has no expectation that the House will consent to force the Government into the action he desires.

Mr. LUMLEY HILL said: Mr. Speaker,—I am quite content with the power the judges have now, and I believe it is very seldom exercised in an arbitrary or unjust way. I believe that the privilege which they enjoy is capable of being extended to an extent deterrent to wrongdoers. I believe myself—I am sure—the mover of this resolution has suffered from the privilege which the Chief Justice rightly and justly exercised from his high official position. He opened my eyes, I know, to a sense of the situation and what was going on, that ex-Ministers who held high positions in the country were capable of being corrupted. I believe that, and I believe that this is a consequent motion—that the hon. member for Townsville has brought this on because the Chief Justice plainly pointed out that he considered that the hon. member in his high official position as Minister for Works had been guilty of corruption. I believe myself—having investigated the matter to a considerable extent—that the Chief Justice was perfectly justified and very right in calling the attention of the public and of this House to the fact. Facts have been elicited by myself, and it was anything but a pleasant task —in fact, the very reverse—I considered it a dirty and disagreeable duty that I owed as a custodian of the public purse to expose the frauds going on.

Mr. W. BROOKES said: Mr. Speaker,—I rise to a point of order. I consider the speaker is going outside, not only the verge of propriety, but outside the rules of fair debate. The question is a distinct motion, and the speaker is now imputing motives to the mover of the motion. I do not think that is either dignified conduct or fair to this House.

Mr. LUMLEY HILL: It may be that I have, in speaking in the way I have spoken, gone as far as the hon. member for North Brisbane says, and imputed motives; but the inference to myself was so obvious that I could not help doing it, and I am now sorry that I should have done so. Looking at it from the point of view that I

did, it was impossible for me to refrain from imputing motives to the mover of the motion, but I will endeavour, in the rest of what I have to say on the subject, to avoid bringing in anything of the kind, or imputing motives of any sort. There must be, even in the utmost democracy, some absolute controlling power; there must be finality in everything, and whether it is to rest with the Government of the day, or whether it is to rest with the Supreme Court judges, it will be very hard for this House or for the country, I take it, to determine. I think that it is better as it is, that the finality should remain in the hands of the judges; that whatever extra power arises may be vested in them. They are, at all events, whatever they may have been in the past —they are, in their positions as judges, removed from the sphere of active party politics, and from any jealousies and ill-feeling that might exist, from either one side or the other. I think, also, that from their position they will be very jealous and very guarded in exercising any undue powers which they may have. We have had very few instances, and there have been very few complaints on the subject since I have been in the colony. Of course, we have heard once or twice of some arbitrary and undue exercise of his prerogatives by a judge; but, I think, after that has been held up to the light of public opinion, a repetition of it is very unlikely to occur, and I further think that, in any instance where any extreme course is taken, it is much more likely to be in the cause of justice than against it. I intend, if it goes to a division, to oppose the motion of the hon. member for Townsville.

Mr. HAMILTON said: Mr. Speaker,—I think there is no question that the present law relating to contempt of court requires alteration. Still it would be undesirable to take away the power that the judge now has of punishing for contempt, otherwise he would not be able to regulate the proceedings of his own court. At the same time it appears to be against the spirit of that justice which he is supposed to dispense that he should have the power, where he is personally concerned, to act as judge and jury and accuser, and not only have that power, but also have unlimited power of punishment—that the only case in which the judge has unlimited power of punishment is that in which his own personal feelings are likely to lead him astray. I think the power of the judge should be clearly defined according to the gravity of the offence which constitutes the contempt; as it is now, the judge can decide what is contempt and then punish for it. An irritable judge may decide that laughter is a contempt of court, and may knock all sense of the ludicrous out of an individual by imprisoning him for life; or if anything in a speech should happen to wound his susceptibilities, he has the power of deciding that the person who has made it is guilty of contempt and of punishing him accordingly. It is fortunate that speeches in this House are excepted, otherwise I think the Minister for Works would have bad luck. Now, my colleague stated that the mover of this motion had suffered from this privilege accorded to the judges. Well, if he has suffered, that is no argument against his motion. I have no doubt the mover of this motion would be just as willing to take away the privilege which is possessed by members of this House, although I may say that that gentleman has never abused that privilege by making statements under the protection of this House which he would be too cowardly to make outside, though challenged to do so. The fact that Lord Fitzgerald and others, who would naturally be supposed anxious to conserve the privileges of their own order, have spoken most strongly against this practice is a strong argument why it should be done away with. Such extreme power is not only opposed to all principles of justice, but it exists in no other civilised country except our own.

Mr. S. W. BROOKS said: Mr. Speaker,—I find myself to a considerable extent in accord with the hon. member for Townsville in this motion. Perhaps that is to be accounted for by the fact that I look at it from a lay standpoint and not from a legal standpoint. Most subjects brought before this House are looked at from at least two standpoints, usually, I suppose, Ministerial and Opposition; but this subject we look at from the legal standpoint and from the lay standpoint. I may be wrong, but I have the opinion that to a legally trained mind—or a lawyer's mind, say—the law is the embodiment of all reason and science and common sense—of everything that is good; and to doubt that is a sort of infidelity. I am a layman, and confess to infidelity of that sort. I cannot feel, at any rate in this particular instance, that the law is the embodiment of reason and common sense; it seems to me to be altogether outrageous that any single judge should have the power of committing me or any other layman—or any man, lay or legal—to imprisonment for a time not to be named, or sentence him to pay a fine of any amount he likes, for something that is called contempt. I do not think the hon. member for Townsville has any idea, and I am sure I have none, of in the slightest degree attempting to interfere with the proper course of justice. We believe most thoroughly that justice should be fairly and properly administered under all proper safeguards. All remarks on this matter, I think, will have chief reference to those contempts which are generally known, I believe, as contempt in open court. I do not think we desire to interfere at all with that contempt which appertains to not carrying out an order of the court, or the many other forms of contempt the hon. the Chief Secretary referred to, reading from "Blackstone's Commentaries"; but only with those cases of contempt which are spoken of as contempt in open court, which a man may commit in hot blood and against his own better reason, but in consequence of which he may be let in for something very serious. I do not think it is at all in accord with the genius of law, and certainly not in accord with common sense, that any single man, judge or whatever he be, should have the power to commit a man to a long term of imprisonment, or to sentence him to pay a heavy fine for such a —breach of good manners, shall I say? I think it is a very good thing that this question has been brought before the House, that the opinions of members may be obtained. It is my misfortune to have been compelled to be absent from the House during a great part of the discussion, so that I do not know much that has been said about it; but I think it is well it should have been brought before us at this time when there is no case before the public of contempt of court. I do not like legislation in a panic; and it is quite possible that if any case were now before the public, which was looked upon as a case of hardship, some steps might be taken and opinions expressed in hot blood which would be improper. Now there is no such case before the country, and we do not know that there is likely to be, and therefore this seems to me a fitting time for the consideration of this matter. I do not think such a power as this should be placed in the hands of any judge, and I am in some agreement with the leader of the Opposition in saying that I do not wish it put in the hands of the Full Court either. I think there would be a danger of their concurring with their learned brother in a matter of this sort, where the action of one of the judges was called in question. I think it is possible to find some other means of dealing with it. I

should like it to be understood that my remarks have special reference to what are called contempts in open court—improper speech or action in the presence of the court. I think some means might be found of dealing with this matter, and taking from the judges this, to me, very unreasonable power placed in their hands. If the matter goes to a division I shall support the hon. member for Townsville in his motion.

The HON. J. M. MACROSSAN, in reply, said: Mr. Speaker,—I am very well pleased with the manner in which this motion has been met by the House, and extremely well pleased with the manner in which it has been met by the Chief Secretary. I quite understand the many difficulties which surround the question, and I sympathise with the difficulties he may have in trying to remedy the defects of the system which at present exists. He pointed out some very material cases which there would be extreme difficulty in dealing with—one case in particular, where a newspaper might continue to publish articles interfering materially with the course of justice. But I think the hon. gentleman's ingenuity would meet even a difficulty of that sort. But that is an extreme case, and one which would probably not happen more than once in ten or twelve years. Even in that case I am quite certain he could find a remedy. We know that in some parts of the world there are Press laws in force, and newspapers there are notified when they are going too far in certain directions. Here, it might be left to the discretion of the judge to give notice to a newspaper, and then, if the editor persisted, let him come under contempt of court to the fullest degree. In the meantime let the first publication stand against him as a record on which he would be indicted. There are many ways, and this is one of them, by which cases of that kind might be met; and they will no doubt readily suggest themselves to the hon. gentleman, who knows much more about the matter than I do. There is no case, however difficult, for which a remedy cannot be found. We have the example, as stated by Lord Fitzgerald, of America, where no such laws exist; and I think the hon. gentleman might learn a great deal from the codes existing in some of the States—California, for instance, or New York. They are both very far advanced, and might safely be taken as a guide to a very large extent. We have had some very bad cases in the colonies—I need not quote any, for they are, no doubt, perfectly familiar to the memories of hon. members—quite as bad as the worst cases which have occurred in England. Looking at the narrow circle from which our judges are selected, and comparing it with the wider circle from which the judges in England are selected—when we find that the judges in England are in favour of having a law of this kind—how much more reason is there for our having that law here! I am quite willing to adopt the suggestion of the hon. gentleman at the head of the Government. Probably the word "forthwith" should not have been in the motion. It is better to give sufficient time in a case of this kind for it to be considered in all its surroundings, and the word "forthwith" would be rather too dictatorial, and calling upon the Government to introduce the Bill at once. Members who are in favour of curtailing the excessive power which the judges hold will be quite willing to allow the Government to consider the question during the recess, and to bring in a Bill dealing with it next session. By "the Government" I, of course, mean the hon. gentleman at the head of the Government; it is perfectly well understood that we look upon him as having a mind capable of devising a remedy to meet every grievance; and we shall not be dissatisfied if he takes that time to consider the matter, and brings in a Bill dealing with it any time next session. With the permission of the House, I will amend the motion by the omission of the word "forthwith."

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

CONTROL AND MANAGEMENT OF PORTS AND HARBOURS.

Mr. BROWN, in moving—

1. That, in the opinion of this House, the time has arrived when the ports and harbours of the colony should be placed under the control and management of local boards, to be called "harbour trustees."

2. That the Government should at once seek such statutory powers as may be necessary to give effect to the foregoing resolution.

—said: Mr. Speaker,—My object in moving this resolution is to elicit the opinion of the Government and of hon. members of the House on what I conceive to be a very important subject. In arguing that the ports and harbours of the colony should be placed under the control of local boards, I shall naturally be expected to give some reasons for what may be regarded as a very important change. I consider that such a change is desirable on three grounds: First, that under the present system improvements are carried out far too slowly; secondly, that the system by which large sums of money are voted for different ports is not equitable; and thirdly, that a large amount of loan money is being employed on works which I consider are not reproductive. To show that works are not carried out with sufficient rapidity, I will refer to the port I know most about—the port of Cleveland Bay—where facilities for shipping and landing cargo are no better now than they were eighteen years ago. I cannot speak so positively with regard to other ports, but I am quite clear about that. If the work of improving the ports were entrusted to local boards very much more rapid progress would be made. Then, I argue, that the present system is not equitable. I do not see why the residents of Thargomindah, or Cunnamulla, or Roma should be taxed to improve the port of Rockhampton; or why the residents of Burketown should be taxed to improve the port of Brisbane. We know that some years ago our roads and bridges were carried out by the Government, money being voted annually in this House; and we know that the tendency of the system was that members who had most influence or most weight in the House generally secured the largest amounts for their respective districts. It was, I think, admitted that that was not equitable. The system in force now, although it is not entirely a local one, is so to a very great extent. That is to say, people rate themselves in each district, and the Government supplement the amount by an endowment. That is as nearly an equitable course as we can arrive at at present. No doubt in years to come the endowment will gradually be discontinued. What is good in the case of roads and bridges should be good in the case of harbours, and I think the tendency of the age—at any rate the feeling of the House—is in favour of decentralisation; that is, allowing the residents in different parts of the colony to carry out their local public works. I think there is another reason why this proposal should be adopted—namely, that it is undesirable to expend such large sums of loan money in unproductive public works. On making inquiries as to the amount of loan money that has been spent on harbour and river improvements up to the present date, I find that we have sunk £1,243,000 in such works, and that in addition to that the sum of £199,000 from revenue, perhaps surplus or special revenue, has been expended—I

will not say that the whole of it has gone in improvements, but it has been expended in connection with harbours and rivers. I contend that we have no right to go to the London market and borrow £1,243,000 to spend in unproductive works. If we look at the Treasury returns we shall find that we spend £38,000 a year in providing for salaries and for the maintenance of harbours and rivers. We also spend £19,000 a year in lights. What do we get for that? The amount received from pilotage, light dues, and all sources of that description is only £19,000 or £20,000, so that we have an annual loss of £38,000 without going into loan money. And in speaking of loan money we must bear in mind that some salaries of officers in the Harbours and Rivers Department are paid from loan. Now, having shown that it is not desirable to continue the present state of things, of course the House will expect me to say how a new system should be initiated. The only desirable pattern we have before us is the system adopted in Melbourne. We know that the Harbour Trust in Melbourne has been a great success. It was established with great difficulty and after considerable opposition. It was only in 1876 that the measure dealing with the subject became law, and the Act did not come into force till 1877. During the first year the revenue of the Trust was £44,000, and the expenditure £16,000. In 1884, the last year for which we have any report, their revenue was £113,000. Their expenditure for that period was considerably larger than usual, because the magnitude of the operations necessitated their going to London for two loans of £250,000 each, at 5 per cent. It is a noted fact that these loans are not guaranteed by the Government, but stand on their own merits. The last loan was regarded so favourably that it commanded a premium, and the trustees received no less than £14,000 on that loan. I am not going to say that our case is quite parallel. There is a very large trade in the port of Melbourne. The whole of this colony has perhaps not the trade of one port in Victoria. But we can begin in a small way. What is good there must be good here, and seeing that we have such a large number of ports we must make a beginning and devise some sort of arrangement in the direction I have indicated. A beginning should be made at once. It is not within my province to say what legislation is necessary, or how it is to be accomplished; but I presume a Bill could be brought in dealing with the matter generally. I am not prepared to say at this moment that all the ports in the colony should be compelled at once to come under the provisions of the proposed law, because it might act injuriously to small ports or to new ports; but it might be so framed that when the trade or revenue of a port assumed a certain size, the provisions of the Act should be extended to that port by Government proclamation.

The PREMIER: Where will you get revenue from?

Mr. BROWN: That is a very important point. I notice in Victoria that their revenue is derived chiefly from wharfages and leases. Now, in Queensland, of course, we would have the same sources—we would have wharfages, and we would, I hope, have leases, because I consider a very important part of the scheme would be to place the control of the water frontages of lands with the harbour boards. I do not think they could succeed very well without that control—and I think it is very desirable they should have it. In Townsville many of the water frontages have come under the control of the corporation. They have induced the Government to confer such powers on them as will enable them to lease those frontages. In some cases they have leased them for quite nominal rents, and have entered into conditions that, if that land is resumed within a certain time, the lessees shall be compensated. I do not know who is going to pay the compensation—presumably the Government if they take the land away. Well, a very small rent is derived from them, but in time the lessees will claim a very large amount as compensation for improvements which would be useless to either the Government, the harbour trust, or the corporation. I hope, therefore, that some steps will be taken whereby these water frontages may be placed under the control of boards as I have suggested. A large amount of revenue would be derived from them, and, as I say, the other source of revenue would be wharfage. I think it would be necessary in a matter of this sort to initiate a scheme providing for a Government endowment, which might be granted for a period of five years or so. The revenue from a port like Townsville during the first year after its initiation would probably reach £2,000 or £3,000—perhaps £5,000. Well, the Government the first year might make the endowment a large one, but it could be reduced every year, and perhaps at the end of the five years they could do without it altogether. If the Government really desire to encourage the idea of placing these harbours under the control of local boards, I think that on inquiry they will find the revenue can be provided. I think they will find also that these boards will be in a position to borrow a reasonable amount of money, though the borrowing powers, I think, should be controlled by the Government to some extent. The Government would naturally exercise some control over the proceedings of these trusts, because they would be represented on the trusts, as one of their officers in the various ports would have a seat on these boards. I do not know that I need take up the time of the House any longer on the subject, and I will therefore conclude by formally moving the resolutions.

The COLONIAL TREASURER said: Mr. Speaker, — The motion just moved is not new, the subject having come before the last two or three Governments for consideration; but action has been deferred because it has been the opinion of the different Governments that the time has not arrived for the formation of these local bodies to give relief to the central department of Harbours and Rivers. If established at the present time, I do not think that they would be of any advantage to the ports in which they were formed. The first thing to consider is—what would be their available financial ability? It is not alone the annual endowment they would receive from the Government that we have to consider, but they would immediately require a loan to provide plant with which to proceed with large and expensive improvements that must be proceeded with, particularly in the port represented by the hon. member, before they could expect to obtain the large revenue from shipping which they would receive if their ports were capable of large accommodation. It is an unfortunate fact that not a single port in Queensland pays anything like expenses—that is to say, the revenue derived from the shipping does not pay the expenses of pilots and the harbour service generally. We receive nothing from light dues, and our harbour dues do not approach the expenditure in any individual port. I do not think the hon. gentleman has shown how sufficient revenue could be obtained, under harbour trusts, to provide for an efficient harbour service. I believe the central Government have done a great deal more for the different ports than they

could have done for themselves if managed by harbour trusts. Though Melbourne furnishes a magnificient example of what harbour trusts can do, yet we must not be led away by what can be done under such different circumstances. Considering the numerous ports which we have on our coast line, I consider the disadvantages to them of harbour trusts would outweigh the advantages in this colony. If we had one large central port through which the whole of our export and import trade could be delivered, then the hon. gentleman would have very good ground for advocating a harbour trust; and there is no doubt that it should be at once established, because a large revenue would be derived on account of all parts of the colony having it as a central outlet; and a large expenditure could be incurred for the purpose of improving that port of accommodation. But here every port of the colony has its respective strip of back country, and that back country at the present time does not furnish to any one of our ports that immense trade which converges into the ports of Port Jackson, Hobson's Bay, and Port Adelaide. We are differently situated from our sister colonies in that respect, and, at the present time, with the exception of Brisbane, and possibly Townsville, I do not think there are any other ports in the colony of sufficient dimensions —Rockhampton and possibly Maryborough may be included—to claim the advantages of a harbour trust. At any rate, if a harbour trust were formed I am not sure whether such trust would be able to carry out the works and improvements which are now being carried out so largely by the Government, in anything like the same satisfactory manner. The hon. gentleman complains of the cost of forming our ports as being an unfair charge on the residents of the inland districts. I do not concur with the hon. gentleman in that view, because I contend that the inhabitants of Roma, Charleville, Cunnamulla, and corresponding towns in the western parts of the northern portion of the colony, receive a great benefit from the improvements carried on in their respective ports, and therefore it is only right and proper that they should bear a fair portion of the charge for improvements to these inlets and outlets to the trade of the colony. I think the hon. gentleman has taken a too parochial view of the matter, because I am convinced that any assessment he could suggest to provide for harbour works on which a fair endowment might be received from the Government would not provide a sufficient revenue for the construction of those works, without such assessment being a most heavy burden on the ratepayers and taxpayers of Townsville or Brisbane, or wherever a trust was established. The works that are at present under construction are of a most costly character and will take years to complete, and require an expensive plant and the whole power of Government to proceed with them. I do not think the residents of the colony can complain of any unnecessary or unreasonable delay in the improvement of their ports. The scheme of the hon. gentleman at the present time is not capable of general application, though it might be applied to the ports of Brisbane and Townsville; but then the difficulty arises as to whether the endowment would be sufficient. I regret that the wharfages of the city have been alienated, for I looked at one time to Petrie's Bight forming the nucleus of an endowment for a harbour trust in Brisbane; and I wish there had been more wharfage reserved in Townsville for a similar object. I would go with the hon. gentleman to the extent of advocating, as I have done formerly, that wharfages should be reserved with the view of endowing future harbour trusts; but I do not agree with him in believing that at the present time harbour trusts would carry out the work which has to be done in the different ports of the colony. They are to a large extent beyond the capabilities of the local authorities, and the work can be done far more expeditiously by the central Government, who possess the necessary plant and have the funds at their disposal. I hope that at some future time a similar motion will be passed, or that the Government will introduce a scheme by which harbour trusts will be established, and that the large ports of the colony will be placed under their control. At the present time, however, it is unwise to affirm the motion, and if the hon. gentleman will give the matter fuller consideration he will see it in the light in which I have endeavoured to place it before the House. I do not think that roads and bridges—and this is a point on which the hon. gentleman appeared to place some weight—can be at all compared with harbour improvements. Roads and bridges may fairly be delegated to local authorities, who have a large extent of country to assess and rate in order to obtain a revenue on which they also receive a Government endowment. Those works can be proceeded with from year to year, or may be interrupted as the exigencies of the times or the financial powers of the local authorities demand. But harbour works are vastly different; they are works requiring continual application, and unless the work that has been done is continued it becomes useless or nullified; therefore any large harbour work being commenced should be kept in hand and maintained by some power which can ably continue it. The improvement of a port like Townsville is not a matter of six months or twelve months, or even two years; it will take, I believe, from five to seven years to make it worthy of the district of which it is the port; and at the present time with the sparse population of Townsville and of that part of the colony the work is too heavy to be imposed upon local efforts, unless subsidised to a most extraordinary extent by the central Government. It would virtually be transferring from the central Government the expenditure of a very large sum of money which I contend is more economically and efficiently expended under the administration of the Harbours and Rivers Department. Therefore I must say that at the present time I consider the motion premature, and that the hon. gentleman has no grounds for proposing it; but I go to this extent: that the water frontages in the different parts of the colony should be reserved with a view of providing endowments for harbour trusts, which, I have no doubt, in time will be established.

The HON. J. M. MACROSSAN said: Mr. Speaker,—While I have considerable sympathy with the mover of the motion, I must say that I am bound to agree with a great deal that has fallen from the Colonial Treasurer. It would be very difficult to make a motion of this kind applicable to the whole of the colony. Reference has been made to the establishment of the divisional boards system. Well, all of us who are well acquainted with the colony know that even that system worked a great deal of what I might call injustice to certain portions of the colony. It was made applicable to the whole colony at once—to those parts that had been inequitably treated as well as to all other parts. Certain portions of the colony had had their roads and bridges to a great extent made for them, and other portions were almost in a state of nature; therefore the divisional boards system in the latter portions I speak of worked most unfairly, and in fact is so working still. The same thing would happen if we applied a motion of this kind to the whole of the colony at the present time. Still, I think it is worthy of the attention of the Government to try and make it applicable to some of the ports. No doubt it would require

a large subsidy if these trusts were established in the ports of Brisbane, Townsville, and Rockhampton; but notwithstanding that, the expenditure from general revenue would be lessened somewhat, and the trustees would be gradually acquiring a knowledge of the working of the trusts, to the advantage of the ports. In fact, it is simply an extension of the system of local government. Now, the power of a trust which begins with small things becomes somewhat wonderful. Almost every member in the House is well acquainted with the River Clyde. It is now an immense work to keep the River Clyde open for navigation, a large amount of shipping going there annually; but when the trust was established it was not so. When it was first established the port of Glasgow was very small, but the trust has gradually grown until it has become the most powerful, active, and energetic trust in the world. The same may happen here. We would not apply the system to all the ports at once, because there are certain of them at which very little has been done as yet, and it would be impossible to throw them on their own resources; but it can be made applicable to the three ports I have mentioned, and probably Maryborough. I do not think at all that the people who would be nominated as trustees of those harbour trusts would not be able to carry out the work equally as well as it is carried out under the central Government, giving the Harbours and Rivers Department credit for what they have done. I think, on the whole, they have done more good than almost any department under Government. I give them full credit for that, but I do not think the work would be in any degree lessened if it was given over to the harbour trusts. As for borrowing money to purchase plant, the Government have very large plant at present, and if they go on working for another four or five years they will have more plant than they have work for; so that they could well hand over to the trusts some of their plant. We have a good many dredges now and there are more building, and the Government could well endow each trust with one of those dredges. The subsidy, no doubt, would have to be large, but it would be less than the expenditure in the same ports from the general revenue now, and then we must also look to the advantage it would be to relieve the central Government of some of its work and responsibility. There is too much dependence upon the Government in all parts of the colony, and the sooner that is abolished I believe the better it will be for the people. I think, therefore, the motion of the hon. member deserves a great deal of consideration. I would not advise him to go to a division, but leave it in the hands of the Government. After having the matter well ventilated I think it may well be left in their hands. They have always been alive to the importance of the question.

The PREMIER said: Mr. Speaker,—My sympathies are with the motion of the hon. member as an abstract question, but I confess I do not see how it is going to work. I do not see where any revenue is to come from to the trusts. The hon. member refers to revenue being derived from the leasing of frontages; but, unfortunately, in Brisbane there are not any left; in Rockhampton there are none left; they have all gone to the municipal council.

Mr. BROWN: They should not have done.

The PREMIER: Probably not; but they have. In Townsville there are very few frontages left, and in Maryborough they are nearly all gone. I do not see where the funds would come from, but, if I saw my way to get over that difficulty, I think that the establishment of harbour trusts would be a very good thing. The hon. member suggests revenue from tonnage, but it is not desirable to impose too many restrictions upon trade, and whatever charge was made upon tonnage it would not produce very much revenue after all. The principle of the motion is good if we could see our way to make it work, and possibly the difficulties could be got over. No doubt the Government must give up its paternal functions sooner or later, and the faster the better; but there are a great many ports in this colony to which it would at present be ridiculous to apply the principle, and there are ports where very great jealousies would arise if it were applied. I do not wish to mention any ports in particular, but there are some in the colony in which there have been as bitter jealousies as to whether a particular kind of harbour work should be carried out as ever there has been between any towns, or sections of towns, in the colony, and I think it is desirable in cases like that that the general Government should carry on these functions—for a time, at any rate—until such works as are considered by more impartial observers to be the best for the community generally are carried out, rather than that the matter should be left to a small section of the community, who might have some interest in the shipping trade for the time being. Those are difficulties that occur to me, but the removal of those difficulties is only a question of time; the principle is right enough—the difficulty is when to apply it. While the hon. gentleman was speaking it occurred to me that his motion covered a large amount of ground. His proposition is "that the time has arrived when the ports and harbours of the colony should be placed under the control and management of local boards, to be called harbour trustees, and that the Government should at once seek statutory power for that purpose." Now, I do not think they should do so at once, but if the resolution was modified so as to read "that in the opinion of the House the principal ports and harbours of the colony should, as soon as practicable, be placed under the control of local boards," and leaving out the second resolution, then I think every hon. member would agree with it. I do not want to press my amendment if the hon. member desires to leave the motion as it stands, and take the opinion of the House upon it, but I think it will be convenient if I propose the amendment, promising to withdraw it if the hon. member desires that I should do so. I therefore move that on the 1st line the words "time has arrived when" be omitted, with the view of inserting "principle." If that is agreed to I shall then move that "as soon as practicable" be inserted after "should" in the 2nd line.

Mr. BROWN said: Mr. Speaker,—I have no alternative but to accept the suggestion of the hon. gentleman at the head of the Government. My object is merely to elicit discussion. I did not suppose that in introducing a motion of this sort I could convince hon. members, in a ten minutes' speech, that it was possible to apply such a system to the whole colony of Queensland, or to show where the revenue is to come from. It must be obvious to the Government that until legislation is framed it would be perfectly impossible to say where the revenue is to come from. The revenue will depend entirely upon the powers conferred upon the board by the Act the Government introduce, so that it is impossible at this stage to say where it will come from. I have indicated where I think it could come from. The objection raised by the Colonial Treasurer is chiefly on the ground that there would be a want of revenue from the small ports. But everything must have a beginning. Questions of this kind are not satisfactorily settled by abstract opinions. The best way

is to see if they can be carried out. The Chief Secretary is under the impression that almost all the water frontages have been alienated. In some cases they have; in Brisbane to a large extent; in Townsville to a very small extent only. There have been only three water frontages alienated there. In Mackay I believe some have been alienated; and in Rockhampton none have been alienated.

The COLONIAL TREASURER: Yes; to the corporation.

Mr. BROWN: They have been placed under the control of the corporation, and I think that body has shown a very wise discretion in taking those water frontages, because they derive a very handsome revenue from them.

An HONOURABLE MEMBER: £6,000.

Mr. BROWN: An hon. member suggests £6,000 a year, which goes to make their roads and streets, and the Government are doing their harbour improvements for them. I have no doubt the corporation of Rockhampton will be glad to keep that sort of thing going on for ever. They would be very unwise to show any disposition to give up control of those frontages, and in the event of harbour trusts being established and they had to give them up, of course they should have compensation. No doubt they would be willing to give them up if they got compensation, and that is one strong reason why we should at once initiate such a system as I propose. In years to come we must have harbour trusts. It will be imperative then, and unless something is done in the matter all these frontages will have been locked up in such a way that the Government, or the harbour trusts, will not be able to get control of them. I am happy to accept the amendment proposed by the Chief Secretary; but at the same time I want to point out that if the matter is to be determined by trial it should be tried in the case of at least one port. I have no doubt I did make my resolution rather too general. I did not intend that in the Act proposed to be introduced all the ports of the colony should be forced to come under it at once. I assumed that only the principal ports would at first come under it, and that the others might do so upon petition, or when the Government deemed it desirable, by proclamation, to bring them under the Act.

Amendment agreed to.

The PREMIER: I move, sir, that after the word "should," in the 2nd line of the resolution, the words "as soon as practicable" be inserted.

Question put and passed.

The COLONIAL TREASURER moved that the second resolution be omitted.

The HON. J. M. MACROSSAN said: Mr. Speaker,—That will hardly carry out the intention of the mover. Of course it would not be desirable to allow the second resolution to be carried in its present form after the amendments that have been made in the first one; but I think the Government should be asked to take statutory powers to carry out the objects of the first resolution as soon as practicable. Even if they only applied it to one or two ports, I think it is necessary that it should be done at once.

The PREMIER said: When I suggested the first amendment I also suggested the omission of the second resolution. As the motion now stands it affirms a general principle—that it is desirable that, as soon as practicable, harbour trusts should be established. But to say that the Government should take statutory powers to carry that into effect this session would be absurd.

The HON. J. M. MACROSSAN: Not this session.

The PREMIER: What use would it be otherwise? At present the resolution is simply an affirmation of an abstract principle, and I do not think there is any use in trying to put it into a concrete form just now. It would therefore be far better to omit the second resolution. We are all agreed as to the first.

Question—That the second resolution be omitted—put and passed.

Resolution, as amended, put and passed.

BURNING OF THE "ROCKHAMPTON."

Mr. W. BROOKES, in moving—

1. That a Select Committee be appointed to inquire into and report upon the burning of the British vessel "Rockhampton" in September, 1885, at Normanton.

2. That such Committee have power to send for persons and papers, and leave to sit during any adjournment of the House, and that it consist of the following members, viz.:—Mr. Donaldson, Mr. Foote, Mr. Foxton, Mr. Lissner, and the mover.

—said: Mr. Speaker,—I wish you and hon. members to understand that this is not an application of a charitable nature; but I ask for a favourable reception by the House of this motion on the grounds that it is necessary in the interests of common equity that some inquiry should be held into the matter I am bringing forward. The "Rockhampton" loaded at Sydney for Normanton, *viâ* Townsville, and had on board ten cases of gunpowder and seventy cases of lithofracteur, which were taken on board at Sydney with all the customary forms and precautions. She left Sydney on the 29th July, 1885, and arrived at Townsville on August 6th. There she discharged a portion of her powder, and resumed her voyage. I may say that the whole conduct of the ship, the management of it, and the administration of affairs on board by the captain, are such as to show that, from beginning to end, the greatest caution and the greatest sobriety prevailed. There was no drinking allowed, and everything was done in consideration of the dangerous explosives on board. During the voyage from Townsville to Normanton, none of the crew went down below, and the orders were very strict that no lights were to be allowed below. They arrived at Normanton, and then commenced to discharge cargo. The Custom-house officer came on board in the usual way, and matters went on right enough until a certain time. She arrived at Normanton on August 28, and the captain went up to the town and returned in the steamer "Amy," which was used for carrying cargo to and fro. When the captain returned the hatches were on; but they were taken off at once, and the cargo was commenced to be discharged. The "Amy" left on September 3, and on that day the tide-waiter came on board. On the next day the "Vigilant" came alongside to take in coal, of which the "Rockhampton" had on board 152 tons. The "Vigilant" went away and the "Amy" returned for a second load. Now, it was just about this time that the circumstances occurred which resulted in the destruction of the ship. There was evidence taken with which I will not trouble the House, except so far as it is necessary to explain the reason why I ask for an inquiry. The cook and steward gave this evidence:—

"I remember the s.s. 'Amy' coming alongside after the 'Vigilant' left for cargo, on the 4th September, 1885. I was not aware of any drink of an intoxicating nature being obtainable on the ships. I never saw the captain partaking of liquor of any description. About half-past 5 p.m. I saw Lewis, the Custom-house officer, at the fore-hatch. He was stooping over the fore-hatch. He had part of a candle, tape, and a box of matches in his hands. The hatches were on

and a tarpaulin partly over them. I saw Lewis strike several matches—cannot swear how many. As he struck the matches the wind blew them out; as the matches went out he dropped them. When I left Lewis he was still in the same position trying to light the candle. From this time until the fire was discovered I was not before the deck-house. I never knew of naked lights being in the hold. I had strict orders not to take a light below deck."

Now, there were no lights taken below all that day, and yet a fire broke out under the fore-hatch. But I will not say too much about that, as I have been given to understand that I shall be regarded as a kind of barrister in the case. It may be said that this application ought to have been made within three months from the date of the occurrence. Any action against the Custom-house must be commenced within three months after the cause of action shall arise, and that is only reasonable. But hon. members should know why this has been left so long. The reason is this: that the captain, having sustained this loss, immediately had an inquiry instituted by the Custom-house at Normanton, and what the result of it was he did not ascertain. Then he made application to Brisbane, and was given to understand that there would be a further supplementary inquiry by the Marine Board here. But it turned out ultimately that the Marine Board declined to investigate the matter, which was very unsatisfactory, as the captain could not have his vessel insured, and he was threatened with this great loss. He only wants to have an inquiry made as to the cause of the loss, and I may say that I have obtained the consent of the gentlemen I have named in the resolution to act on the committee with that object. Everything is ready. I have all the depositions taken at Normanton to be read by the committee; and as it is a very simple piece of business, I trust that the House will agree to my motion. If the House does not, it will leave the question unsettled; and I do not think it ought to be left unsettled. The inquiry at Normanton was, of course, conducted by the Custom-house authorities. The person on whom the charge of carelessness seems at least to hang is the tide-waiter; and the person conducting the inquiry was the Sub-collector of Customs at Normanton. The captain might well think that the Sub-collector of Customs at Normanton was hardly likely to bring anything heavily home to one of his own officers. He is not charged with unfairness, only a committee such as is asked for will have an opportunity of going quietly and calmly into the matter. I trust the Government will not make any opposition to this very reasonable request. It is a simple matter and will not take long. I may say there is further evidence to be adduced before the committee, because there are three of the crew now in town, and they will give additional evidence. I do not think I need say any more, and I now beg to move the motion standing in my name.

The COLONIAL TREASURER said: Mr. Speaker,—When this motion was called on by you, sir, I objected to it going as a formal motion, not with a view of preventing the hon. gentleman from getting the committee if he desired it, and thought that by having the committee, the origin of this fire would be traced and the ends of justice effected, but because I did not wish it to be understood that by accepting the motion as formal I concurred in the necessity for such a committee being appointed. I am glad that the hon. gentleman did not in his speech proceed further into the details of the matter, because I wish hon. members who are to serve upon the committee to enter upon their work without a previous knowledge of the case, and to investigate it completely. I do not think the hon. member was correct in saying that all the committee would have to do would be to read the papers and come to a decision; if that was all that was necessary we could have allowed the papers to be printed, and let the House come to a decision. But this select committee will have an extensive field of research, entailing considerable expense, inasmuch as witnesses will have to be brought down from Normanton, because the committee will not possibly be wholly satisfied with the report made by the Sub-collector of Customs at Normanton. I feel very much for Captain Killeen, who has lost his ship, but I cannot see that he has the slightest claim against the Government or the department in the matter. The source of the fire is a mystery, but I believe it was really caused by a spark from the fires of the steamboat lying alongside the "Rockhampton." It is much more probable that the fire originated in that way than by the action of the tide-waiter, who simply sealed down the hatches in the ordinary way in pursuance of his duty. I wish the hon. member had called for the papers, as then hon. members would have understood the case and been able to say whether a *primâ facie* case had been made out for an investigation by a select committee. The investigation by the committee will involve a considerable amount of expense, still if the hon. member believes that it will give satisfaction to the captain of the ship, and feels it his duty to ask for the committee, I have, on behalf of the Government, no objection to offer to his motion. I trust that hon. gentlemen who will have to investigate this matter will do so with unprejudiced minds. I mention this because one of the gentlemen named in the motion came before me asking for compensation for the captain. I may say that the reason why the Marine Board declined to interfere was because the application was made to them a very long time after the investigation was made at Normanton, and as several of the witnesses—sailors on board the ship—were out of the colony they did not see how they could have any inquiry of a satisfactory character. Captain Killeen, however, was offered by the Portmaster an opportunity of being examined, but he declined, doubtless thinking it would not strengthen his position. I have nothing to add except that I trust there will be a thorough investigation.

Question put and passed.

MANUFACTURE OF LOCOMOTIVES AND IRONWORK FOR BRIDGES IN THE COLONY.

On the Order of the Day being read for the resumption of debate on Mr. Annear's motion—

"That, in the opinion of this House, the time has arrived when, from the number of skilled mechanics in the colony, an effort should be made by the Government to encourage the manufacture within the colony of locomotives and all rolling-stock in future required for our railways, and all ironwork required for our bridges"—

On which Mr. Bulcock had moved that the question be amended by the insertion, after the word "Government," in the 3rd line, of the following words, viz.—"due regard at the same time being paid to the rights of the general taxpayer"—which stood adjourned (under sessional order of 14th July last) at 7 p.m. of Thursday, the 19th instant—

Mr. ANNEAR said: Mr. Speaker,—With the consent of the House I would like to postpone this motion until this day week. I therefore beg to move that this Order of the Day stand an Order of the Day for this day week.

Question put and passed.

ADJOURNMENT.

The PREMIER said: Mr. Speaker,—I beg to move that this House do now adjourn. The Government propose on Tuesday next, after the formal business is disposed of, to take the second reading of the Water Bill, and after that the Gold Mining Companies Bill, the Opium Bill, and the Settled Land Bill will stand next in order on the business-paper.

Question put and passed.

The House adjourned at 9 o'clock.