

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Council**

**THURSDAY, 23 SEPTEMBER 1886**

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**LEGISLATIVE COUNCIL.**

*Thursday, 23 September, 1886.*

Petition.—Local Authorities (Joint Action) Bill—third reading.—Marsupials Destruction Act Continuation Bill—committee.—Offenders Probation Bill—committee.—Gold Fields Act Amendment Bill—second reading.—Justices Bill—consideration of the Legislative Assembly's message of date 16th September.

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

**PETITION.**

The HON. A. C. GREGORY presented a petition from certain Chinese merchants, urging reasons against the passing of the Opium Bill; and moved that it be read.

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

On the motion of the HON. A. C. GREGORY, the petition was received.

**LOCAL AUTHORITIES (JOINT ACTION)  
BILL.**

**THIRD READING.**

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

**MARSUPIALS DESTRUCTION ACT  
CONTINUATION BILL.**

**COMMITTEE.**

On the motion of the POSTMASTER-GENERAL, the Presiding Chairman left the chair, and the House went into committee to consider this Bill.

Clause 1 passed as printed.

On clause 2, as follows :—

"The board of a district may in any year reduce the rates of bonus payable in respect of scalps of kangaroos or wallaroos below the rates specified in Schedule B of the Marsupials Destruction Act 1881, or may direct that no bonus shall be payable in respect of such scalps"—

The HON. W. FORREST said when the second reading of the Bill was moved yesterday he said he had grave doubts with regard to clause 2, and before going into committee he would like to consider it. He regretted to say that he really had had no time to do so. His object in rising now was to ask the Postmaster-General to explain why the clause had been put in the Bill at all. He quite agreed with the hon. gentleman in regard to the value of the Bill, and his object in drawing attention to the clause was that they might strike it out if they thought it was likely to spoil the measure. He thought it would have that effect; and he should like the Postmaster-General to explain the clause.

The POSTMASTER-GENERAL said he should be very happy to give the hon. gentleman reasons for including the clause in the Bill. Within the last year or two the value of kangaroo and wallaroo skins had greatly increased, and it was very seldom that they were sold below 4s. When the animals were shot with a rifle in the head and the skins were preserved, they fetched 7s. 6d. In different parts of the colony, certain gentlemen had represented that they should have the power to reduce the bonus or to waive it altogether. In respect to the larger animals, which were very scarce indeed in some districts, it was found that men were going in for shooting those animals for the sake of the skin alone, and it paid them extremely well. He thought the power to modify the bonus, or decide whether any bonus at all should be payable in respect to marsupials, could be safely given to the local boards who were always interested in keeping their respective districts free of the marsupial pests. It was only in certain districts where the larger marsupials were found that the clause would be availed of at all, and if any economy could be exercised by the boards, without diminishing the active prosecution of ridding their districts of the pests, he thought it was a very good thing to allow. The principal reason for inserting the clause was the exceedingly great value, comparatively speaking, of the skins to what the value was in 1877, when the Act was first passed.

The HON. J. TAYLOR said the Postmaster-General seemed to be well informed upon almost everything, but he was perfectly wrong in what he had just stated. He ventured to say that not 2 per cent. of those animals had been skinned in the district which he knew most about. Since January 1st of this year he had had four shooters on one of his properties, and they had shot between 6,000 and 10,000, large and small animals, but not one single animal had been skinned. Men would not take the trouble to skin them when they could get 8d. or 4d. for the scalps; they thought that quite good enough. If they did skin them they had to pack the skins, take them into camp, and dry them, and that was a great deal more trouble than they were worth. He saw what scalps and what skins were brought in, and could assert that not 2 per cent. of the kangaroos shot were skinned. That was his reason, therefore, for voting against the clause, and he should endeavour, as far as he could, to throw it out, because he did not think such power should be intrusted to any board.

The HON. J. D. MACANSH said he thought the argument of the Hon. Mr. Taylor, that the scalp-hunters who went out and killed marsupials did not save any of the skins, because the

bonuses were sufficient to recompense them for their trouble, was a very strong argument in favour of the reduction of the price for scalps. It was an argument in favour of the shooters being compelled to recognise the commercial value of the skins, and if only a small bonus was paid, or none at all, they would be obliged to do that. He knew that it was altogether a mistake to say that a very small proportion of the skins were saved, for in his part of the country the greater part of them were saved. Many of the people saved all the skins of the animals they shot, with the exception of the small ones, and the price they got, even for skins of animals that had been almost destroyed by shot instead of bullets being used, was as high as the Postmaster-General had stated—namely, 7s. 6d. a skin. The lowest price now was somewhere about 2s. for the smaller skins. When the animals were killed with rifle bullets, of course the skins were more valuable, but he did not think there were many killed in that way. The only objection he could see to the clause was that one district might reduce the bonus payable for scalps, while the adjoining district might not reduce it at all, so that scalps might be taken from one district and delivered to the people in the next district; that was the only objection he could see to the clause, otherwise he thought it might well be left to the marsupial boards to determine whether they should reduce the amount payable or not. He did not think it was of very much consequence whether the clause was carried or not, further than that it would be an inducement to men who shot the marsupials to save the skins, which would otherwise be lost to the colony. He certainly approved of the clause.

The HON. A. C. GREGORY said the continuation of the bonus would certainly not do anything in the way of stopping the industry of collecting skins; in fact, it would greatly increase it, and oblige those who went out for the purpose of skinning marsupials to be more careful in their work. At present it would not pay to collect skins unless there was something besides the value of the skin to remunerate people for their trouble. The price stated to rule now in Sydney for kangaroo skins was no criterion of how much the kangaroo-shooters would get for the skins. It must be very well known that where a shooter got a penny for a skin up the country, when it came down the price had reached 3d. or 4d., so that in reality a very small proportion of the money paid for skins ever reached the original destroyer of the animals. What he thought was a most important objection to the clause was, that in one district kangaroos might be a trouble and a nuisance, and of course the board there would continue the bonus; but in the next district they might not be so numerous, and the board might stop the bonus, and at the same time have the kangaroos of the district killed at the expense of the adjoining board. If the bonus was stopped in one district the kangaroos would very soon increase, and go across the border into the next district. He thought it was undesirable that the clause should remain in the Bill, and he should vote against it.

The HON. A. RAFF said hon. members seemed to have overlooked the fact that the price which was allowed to be paid for scalps under Schedule B of the Marsupials Destruction Act of 1881 was 8d. for a wallaroo and 4d. for a paddamelon. The Act of 1868 gave the boards power to increase the rate, but not to exceed 2s. for kangaroo and wallaroo scalps and 1s. for paddamelons, so that the arguments of the last speaker did not hold good, for the very reason that boards might vary the price to be paid for scalps at the present time. He felt inclined to support the clause.

The HON. W. FORREST said there was no doubt that what the Hon. Mr. Raff had pointed out was quite correct, that the last Act gave power to the boards to increase the rate up to 2s. and 1s., but it had a very different effect to what the effect would be if the bonus was done away with altogether. There were many localities in which people strongly objected to paying a single farthing for the destruction of kangaroos, arguing that there were no kangaroos in their district, and why should they pay for their destruction in other parts of the country? These men were unable to understand the principle of their neighbour's house being on fire. A friend of his, who had a place 400 miles west of Brisbane, during the time when the ravages were going on in the Peak Downs, said to him that he had never seen but one kangaroo on his run, and when he got back he would shoot it. Within the next four years the scrubs round about his place were filled with kangaroos and wallabies. He could very easily understand one or two men on a board, who happened to be in favour of no bonus being paid, who were able to influence all the other members, and force upon them their views. Now, a great deal of good had been done by the Act up to the present time, and he thought it would be very foolish indeed to do anything which might have the effect of making it inoperative. Their object should be to make the Act as perfect as possible. He could not agree with the arguments of the Hon. Mr. Macansh, that giving bonuses would prevent kangaroos from being skinned. He did not see that at all, because if it paid to skin them without a bonus, surely it would also pay to take the skin off when a bonus was given. He was decidedly opposed to the clause, simply because he was afraid that it would interfere with the successful working of the Act.

The HON. A. J. THYNNE said it seemed to him rather strange that so late as last year they should have passed an Act increasing the rates to be paid for scalps from 8d. and 4d. to 2s. and 1s., and that this session they should be asked to practically repeal the minimum limit that had been imposed by the Act. It seemed to him that the Government in passing the Bill had been acting upon the representations of some one or two interested parties, who did not wish to co-operate with their neighbours in assisting to perform their share of a national undertaking or assist in removing a national grievance. He thought he ought to support those hon. gentlemen who were in favour of retaining the minimum, for he could see no reason why Parliament should be asked to pass a Bill which was a distinct contradiction of an Act which had been agreed to only last session.

The POSTMASTER-GENERAL said he would direct the hon. gentleman's attention to the fact that the clause was optional, and that it only applied to kangaroos and wallaroos. The hon. gentleman's observations would imply that the provisions contained in the clause would apply to the whole colony, but they did not, and they need not apply to any district in the colony. The hon. gentleman argued that the clause was contradictory of another Act because it provided for a reduction of the bonus, whereas the Act of 1885 provided for an increase. But why was the bonus increased? Because in some districts marsupial destruction did not pay at the price mentioned in the principal Act; and it was now proposed to give the option in some districts of decreasing the bonus first, because the occupation in some districts paid the shooter, and secondly, because the value of the skins of kangaroos and wallaroos was itself sufficient remuneration. Now, where was the contradictory legislation in that? There was none at all. It was the flexibility of legislation

on the subject which would enable them to deal with the circumstances of each different district. The local boards would determine what remuneration, if any, was desirable in their respective districts. He knew that in some districts it would not pay even if 10s. a head was given and even if the skins could be conveyed to the seaboard for nothing. That was the advantage of the measure, and that was the advantage of the measure of last year. He was sure it was a matter that might confidently be reposed in the local boards. Surely the Hon. J. Taylor had confidence in the boards; and surely they would not make such a reduction in the bonus as would tend to increase the pest. As was pointed out by the Hon. Mr. Raff, they had power to increase the rates, and why should they not also have power to reduce them?

The HON. F. T. GREGORY said the boards at present had the power of levying a rate between that provided by the Act of 1881 and that provided by the amending Act of last year; and within those limits the power of adjustment was perfectly flexible; but clause 2 provided power for certain boards who might think fit to reduce the rate or do away with it altogether. A strong argument against giving that power to the boards would be analogous to the argument with regard to the destruction of noxious weeds. If it was made compulsory that they should be destroyed in one district while an adjacent board decided not to destroy them, the efforts in one board would be almost nullified; in the same manner if one board offered no reward for the destruction of marsupials other districts who did offer any rewards were certain to suffer, and taking that view of the case he believed the clause would imperil the benefits resulting from the Marsupials Destruction Act, which might almost as well be repealed if the clause were passed.

The HON. J. TAYLOR said he should like to know whether the Postmaster-General or the Hon. Mr. Macansh had ever seen account-sales of marsupials.

The HON. J. D. MACANSH: I have.

The POSTMASTER-GENERAL: They are quoted in the *Herald* every week.

The HON. J. TAYLOR said he should like to know how much a man who skinned a marsupial got out of it. He had four men shooting them now, and in addition to the bonuses of 8d. and 4d. for kangaroos and wallabies respectively, with which they were not satisfied, he had to give them something besides. He would trust some boards with the power of reducing the rates, but others he would not trust, and he hoped the clause would be thrown out.

The HON. W. FORREST said they must not lose sight of the fact that they were dealing with a great national calamity, and they should not leave a matter of that sort to the discretion of any board.

The HON. J. D. MACANSH said he had seen account-sales of a large number of skins sent to Sydney. He did not recollect the net proceeds, but after all expenses were paid there was between 3s. and 4s. a skin left. Where kangaroos were numerous it paid well to shoot them for the sake of their skins, and it might very well be left to the boards to say what price should be given for the scalps. In some districts, where there were few kangaroos, the station-owners had paid as much as 2s. 6d. each for the scalps, but where marsupials were numerous it was not necessary to give a large bonus.

The HON. A. J. THYNNE said that one peculiar part of the Bill had been overlooked—namely, the fact that it was only to extend the

operation of the Marsupials Destructions Act till the end of December, 1887. The hon. gentleman who argued that it would be time enough to give a high price for scalps when necessary seemed to overlook the fact that the intention of the measure was to make the destruction of the pest as rapid and as complete as possible. If scalp-hunters made a large profit on their transactions it was all the better for the colony, because the greater the profit the greater would be the number who engaged in the destruction of marsupials. If they gave power to divisional boards to wait till the prices came down, before increasing the rates they would be making the pest a constant one, for the destruction of which they would have to pay year after year; and if the rates were reduced now more would have to be paid for scalps when the skins became cheaper. He thought the Committee would be acting in a very short-sighted way if they gave power to reduce the amount paid for the destruction of marsupials just because a little extra profit was made on the skins just now. There was no better way of nursing the plague than the provision contained in the 2nd clause.

The HON. J. F. McDougall said that, having had probably as much to do with marsupial boards as anyone in the colony, he might be allowed to express an opinion. It was this—that if the clause was passed it would undo all the good that had previously been done. He was sorry to disagree with the Hon. Mr. Macansh, who believed that the price of skins obtained would be a sufficient inducement for men to kill the marsupials. He did not believe it would, because kangaroo-shooting was a precarious kind of occupation. While they had the bonuses they were safe enough, but if they had to depend on the price of the skins they would not be able to make a living.

The HON. W. G. POWER said that some years ago he tried to make a garden, but his neighbours kept fowls. He went to some expense in putting up wire netting, but because they would not do the same he was compelled to give it up altogether. He thought that it would be the same with the kangaroo business; if one board neglected to keep down the kangaroos it would be useless for other boards to do so.

The HON. G. KING said that the sooner the work of destruction was completed the better, and every possible inducement should be held out for the destruction of marsupials. Perhaps by making it optional, and allowing an interval of time to come in during which they could increase again more mischief would be done than had been remedied by the operation of the Act, and he thought it would be better to leave the clause out.

The HON. W. FORREST said he was in Sydney about six or seven weeks ago, and he could give the Committee some information about the price of skins. An unusually large order came from America, and that was why the prices went up, but recently they had been coming down again. There was another difficulty in regard to the clause. It was provided that the rates must be fixed at the first meeting of the board in each year. At present they must be not less than 8s. and 4d. respectively for kangaroos and wallabies, but they might be as high as 2s. and 1s. respectively. If they decided to give no bonuses for twelve months, and the price of skins came down in the meantime, it would not be worth while for anyone to destroy the marsupials in that district.

The HON. J. D. MACANSH said the price of skins had been high for many months. Manufacturers of leather had only lately discovered

their value, and he did not think it likely that there would be any material fall in the price. There was one objection to the clause—namely, that the bonuses in one district might be lower than in another district, and scalps might be taken from one district to another district in order that the higher rate might be obtained; still he thought it better to leave it in the hands of the people interested to raise or lower the bonuses.

Question — That the clause, as read, stand part of the Bill — put, and the Committee divided :—

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The Hons. T. Macdonald-Paterson, W. Horatio Wilson, J. D. Macansh, A. Raff, W. F. Taylor, F. T. Brentnall, J. C. Heussler, and W. Pettigrew.

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The Hons. J. F. McDougall, F. T. Gregory, A. C. Gregory, G. King, J. S. Turner, W. Forrest, W. D. Box, W. Aplin, W. G. Power, J. C. Smyth, J. Taylor, A. Heron Wilson, and A. J. Thynne.

Question resolved in the negative.

The HON. A. J. THYNNE said that he wished to test the sense of the Committee on the question whether it was desirable to allow the dingo to remain in the Act. In another place it was attempted to include the flying-foxes, and the answer given was that the Marsupials Destruction Act was only intended for the destruction of grass-eating animals; therefore he thought the dingo was entitled to exemption. He had been asked to bring the question up by people interested in cattle-stations, and he believed it was a question between the owners of cattle-stations and the owners of sheep-stations whether the dingo should be destroyed or not; and in the discussion which took place last year several hon. gentlemen expressed opinions in favour of omitting the provision of the Act relating to the dingo, but the question did not come to a division. He proposed now to take the sense of the Committee on the following new clause :—

The fifth clause of the Marsupials Destruction Act of 1885 is hereby repealed.

The 5th clause was the clause which extended the provision of the Marsupials Act to dingoes, and the effect of his proposition would be to remove that provision.

The POSTMASTER-GENERAL said he sincerely trusted that the Committee would not even discuss the desirableness or otherwise of adopting the proposed new clause. The Bill was intended to provide for the continuation of the Marsupials Destruction Act of 1881, and the amending Act of 1885, and he wished to say that he was a sufficiently loyal colonist not to desire that the continuation of those Acts should be endangered. By no one in the Chamber was the pest regarded with a greater horror than by him. He had seen the Peak Downs, to which the Hon. Mr. Forrest had referred, in a state most pitiful to behold—the sheep could not be seen on account of the marsupials. He knew that marsupials had been very much increased through the poisoning of native dogs adjacent to the Peak Downs. If they raised the question of the dingo now, where would it end? He really hoped hon. members of that Chamber would not delay the passage of the measure by considering the question this year of the advisability of destroying the dingo. It was a matter upon which many men in different parts of the country could not agree, some being sheep men and some cattle men, differed in their opinions as to whether it was desirable to poison the dingo or not. It was a matter of dispute to this day. Go where one would, advocates for the destruction of the dingo

would be found, and others who maintained that it was an animal that should be preserved. But he trusted hon. members would not discuss the matter, and that the mover of the amendment would withdraw it.

The HON. G. KING said he hoped his hon. friend Mr. Thynne would withdraw his amendment, because the Bill was one for the continuation of a former Act, and the amendment would introduce something quite new into it. The amendment could not be conveniently fitted in, and should therefore be withdrawn.

The HON. W. FORREST said, in reply to the Hon. Mr. King, he would point out that clause 5, which was introduced into the Act of 1885, was entirely new, and they were then considering the question of renewing the old Act. There was no reason under the sun why they should not repeal that clause any more than they might object to the new clause which had been struck out. At the same time he certainly was not prepared to go with his hon. friend Mr. Thynne. Though he quite agreed with him, his objection was the same as the Postmaster-General's. He was afraid the amendment might endanger the passing of the Act. When the matter was before the House last year he spoke strongly in favour of not having the dingo destroyed, and he felt just as strongly upon the question now; but at the same time, he did not think that, under the circumstances, he could quite support the Hon. Mr. Thynne.

The HON. J. D. MACANSH said he did not know whether hon. members were aware that clause 5 of the Act of 1885 made it entirely optional with the board to pay for the scalps of native dogs. Clause 5 said:—

“The Minister, at the request of the board of any district, may authorise the application of the funds standing to the credit of the account of the district in payment of a bonus for the destruction of dingoes at a rate not exceeding five shillings for each scalp.”

So, in a district where the board thought it better not to destroy the dingoes, no bonus would be paid. Those who thought the native dog should be preserved need not fear the clause at all, because if the boards did not wish to destroy them, they would not do so. He would express no opinion as to whether the dingo should be killed or not. He had his own opinion about that, but, as the clause stood in the principal Act, he did not think it mattered in the slightest, and as the insertion of the Hon. Mr. Thynne's amendment might endanger the passage of the Bill, he thought it would be much better to withdraw it.

The HON. A. J. THYNNE said, as it appeared he stood practically alone, and there was no chance of support from other hon. members, he begged to withdraw his amendment.

Amendment accordingly withdrawn.

Clause 3 put and passed.

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

## OFFENDERS PROBATION BILL.

### COMMITTEE.

On the motion of the POSTMASTER-GENERAL, the Presiding Chairman left the chair, and the House went into committee to consider this Bill.

Preamble postponed.

Clause 1 passed as printed.

On clause 2—“Interpretation”—

The POSTMASTER-GENERAL said the Hon. Mr. Thynne had called attention to the absence of clearness in the definition of the term “minor offences.” He must say he had looked at the clause several times, and he was under the same impression as the hon. gentleman. The matter had been very fully considered. He therefore moved that in paragraph 2 all the words after the word “which” be omitted, with the view of inserting the following:—

By law a sentence of penal servitude or imprisonment, with or without hard labour, for a shorter period than three years, may be passed, and for which the sentence of less duration is, in the opinion of the court, inadequate punishment.

The HON. A. J. THYNNE said the amendment met his objection completely.

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

On clause 3, as follows:—

“When a person is convicted of a minor offence, not having been previously convicted in Queensland or elsewhere, of an offence, and sentenced upon such conviction to penal servitude or imprisonment for a period exceeding three months, the following provisions shall have effect:—

- (1) The court shall proceed to pass sentence upon the offender in the usual form.
- (2) The court may, if it thinks fit, suspend the execution of the sentence, upon the offender entering into a recognisance in such amount as the court directs, such recognisance being conditioned that the offender shall be of good behaviour for a period from the date of the sentence equal to the term of the sentence, or if the term of the sentence is less than twelve months, then for the period of twelve months, and shall not during the like period do or omit to do any act whereby the recognisance would become liable to be forfeited under the provisions hereinafter contained.
- (3) When such recognisance is entered into the offender shall be discharged from custody, but shall be liable to be committed to prison to perform his sentence if, during the period specified in the recognisance, any of the conditions hereinafter specified happens with respect to him.  
A written notice shall be given to the offender upon his discharge specifying the conditions under which he will become liable to be so committed to prison.
- (4) When an offender is so committed to prison the sentence shall begin to run from the date of such committal, but the term of the sentence shall not extend beyond the period specified in the recognisance, and at the expiration of that period the offender shall be entitled to be discharged.”

The HON. W. FORREST said, while he thoroughly approved of the principle of the Bill, he thought it was a matter for regret that the period of probation had not been made longer. They knew very well that men were creatures of habit, and the great object of the Bill was to give an opportunity for the complete reformation of young offenders. He really thought, therefore, that the Bill would have been much improved if the period of probation had been longer, because it stood to reason that the longer a man kept upon the proper course the more likely he was to give up his evil ways. He did not see, however, how his idea could be inserted in the Bill, without the measure being recast altogether, and, under the circumstances, he would not move any amendment.

The HON. W. HORATIO WILSON said he did not think the proposition of the Hon. Mr. Forrest would be a great improvement, because the period of probation corresponded with the period of sentence, and he thought it would be a pity to unnecessarily harass the persons who were on probation.

Clause put and passed.

The HON. W. HORATIO WILSON said he had a new clause to propose, to follow clause 3 as passed. It would be in the recollection of hon. gentlemen that on the second reading of the Bill he intimated that he thought the measure was capable of improvement by the insertion of a clause providing for cases where a person was charged with stealing from the person, or wilful destruction of property, or where a fine had been imposed; and that it might be judicious to insert a clause requiring the offender to pay the amount of damage done before the expiry of his sentence. That, he considered, would only be just to the injured person, and would give an offender an opportunity of repairing the injury he had done. Accordingly, he had to submit to hon. members a clause that had been prepared in accordance with these views, which was to the following effect:—

If the offence of which a person is convicted has relation to property, or is an offence against the person, the court may, if it thinks fit, upon suspending the execution of the sentence as hereinbefore provided, order the offender to make restitution of the property in respect of which the offence was committed, or to pay compensation for the injury done to such property, or compensation for the injury done to the person injured, as the case may be, and may assess the amount to be paid by the offender in any such case, and may direct when and to whom and in what instalments the amount ordered to be paid shall be paid.

Every such order may be enforced by any justice in the same manner as orders made by justices upon summary convictions.

The court may also, if it thinks fit, require the offender to give security for the performance of any such order, and may make the discharge of the offender from custody conditional upon such security being given.

He thought the clause would commend itself to the Committee as being one that would very much assist magistrates and others in carrying out the provisions of the Bill. He might mention that he had consulted with the hon. the Chief Secretary, who was the originator of the measure, and he might state that the amendment had his full concurrence. He now submitted it for the consideration of hon. members.

The HON. F. T. GREGORY said he thought the Hon. W. H. Wilson might be complimented on the introduction of the clause, because it appeared to be one which would render the Bill more perfect. It was quite in harmony with the principles of the Bill, and in one sense it was reverting back to the strictly patriarchal law, although the clause was framed upon modern lines. He had been unable in looking through it to find anything with which he disagreed, and he should support the clause.

Clause put and passed.

On clause 4, as follows:—

“Every offender so discharged shall, once at least in every three months during the period specified in the recognisance, report his address and occupation to the principal officer of police at the place in which he was convicted, or at such other place as the Commissioner of Police may appoint.

“Such report may be made either by the offender personally attending at the place aforesaid, or by post-letter signed by him and addressed to the principal officer of police at that place, unless in any case the Colonial Secretary directs that the report shall be made by the offender personally, in which case it must be made in that mode only.”

The HON. W. HORATIO WILSON moved, as a consequential amendment, the omission of the word “so” in the first line of the clause, and the insertion in the same line, after the word “discharged,” of the following words: “under the provision of this Act.”

Amendment agreed to.

The HON. W. G. POWER asked the Postmaster-General whether discharged prisoners could leave the colony?

The POSTMASTER-GENERAL said there was nothing to prevent them leaving the colony.

Clause, as amended, put and passed.

On clause 5—“Conditions under which defendants may be arrested”—

The HON. A. J. THYNNE said he wished to point out to the Postmaster-General that if a convicted person left the colony there was no provision in clause 5 for bringing him back.

The POSTMASTER-GENERAL: Oh, we don't want him back!

The HON. A. J. THYNNE said perhaps that was the intention of the Government.

The POSTMASTER-GENERAL: They can go to New Caledonia.

The HON. A. J. THYNNE said that was to a certain extent harking back upon the question that Australia had been urging upon its French neighbours.

The HON. W. G. POWER said it would be quite proper that people should be allowed to leave the colony under the circumstances. They would probably redeem themselves far better at a distant place than here.

The POSTMASTER-GENERAL: No difficulties will be placed in the way of their going away.

The HON. F. T. GREGORY said a point occurred to him as to the forfeiture of recognisance. If an offender gave recognisances it struck him if there was no provision to prevent him leaving the colony there would be no forfeiture of recognisances, because there would be no means of communicating with the prisoner at a distance and he could not report himself. What would be the use of a man reporting himself from California. He would show he had left the colony simply to get out of the way. He was afraid that many people would hesitate before they would give their recognisances to a man who was prepared to leave the colony.

The POSTMASTER-GENERAL said it might be as well for hon. members to remember that that was experimental legislation, and doubtless as the working of the Act proceeded experience would be derived that would be advantageous in the modification or amendment of the law.

The HON. A. J. THYNNE said, in looking through the original Bill, he noticed that the only recognisances mentioned there were the recognisances of the accused person himself. If they looked at the 3rd paragraph of the Hon. Mr. Wilson's clause they would find that it provided:—

“The court may also, if it thinks fit, require the offender to give security for the performance of any such order, and may make the discharge of the offender from custody conditional upon such security being given.”

Now, the ordinary mode of taking securities, in magistrates' courts especially, was by recognisances, and he noticed that the word “recognisance” in the 29th line was in the singular number, and it might be taken to mean the recognisance of the prisoner himself. Assuming that the magistrate took the recognisance of the prisoner himself, the question might arise whether that recognisance could be estreated. The matter required a little further consideration. It might be that there was some provision in the new Justices Act under which recognisances might be estreated. Clause 3 did not specify what kind of security was to be given; it might be a bond or security of any kind.

The HON. W. FORREST said that a discharged offender could be re-arrested if he failed

to do certain things. Amongst others, he had to report himself by letter, and under certain circumstances personally, and if he failed to do so the sentence would take effect if ever he came back.

The HON. A. C. GREGORY said that as he understood the provisions of the new clause it would not be a recognisance, but simply a security.

The HON. W. HORATIO WILSON said that no difficulty could arise in regard to the new clause to follow clause 3 and clause 5, because under this new clause the court simply required the offender to give security for the performance of their order, and clause 5 referred to recognisances into which the person entered to carry out the condition the court imposed. It must be recollected also that the Bill referred only to first offenders.

Clause put and passed.

On clause 6, as follows :—

"In any case in which the Governor is authorised on behalf of Her Majesty to extend mercy to an offender under sentence of penal servitude or imprisonment with or without hard labour, he may extend mercy upon condition of the offender entering into a recognisance conditioned as prescribed in the third section of this Act. And such offender shall thereupon be liable to the same obligations, and shall be liable to be dealt with in all respects in the same manner as a person discharged upon recognisance under the third section."

The HON. A. J. THYNNE said the clause was one of the best in the Bill. He knew of many men serving sentences in the gaols of the colony to whom its provisions might be applied with great advantage; and he trusted the Government would not be behindhand in exercising the power conferred by the clause.

Clause put and passed.

Preamble put and passed.

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

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

## GOLD FIELDS ACT AMENDMENT BILL.

### SECOND READING.

The POSTMASTER-GENERAL said: Hon. gentlemen,—The existing law relating to goldfields gives the Government no power to grant leases for the purpose of gold-mining under reserves. The object of this Bill is simply to enable gold-mining leases to be granted under the principal Act of any land within a reserve, a residence area, or a business area upon a goldfield subject to the conditions specified in clause 3. Temporary provisions which are intended to be in force for six months after the passing of the Bill are provided in section 5. They are clearly set forth, and the sub-clauses provide the machinery under which applications will be made for lands. And, lastly, clause 6 provides that damages sustained by any person through any injury of the surface of any land leased under the provisions of this Bill and those of the principal Act and the regulations established thereunder, and which lessees are liable to pay, may be recovered in the warden's court. For some years past many applications have been made to the authorities for leases to enable mining operations to be carried on under reserves and within their areas, and the principal Act, which is called the Gold Fields Act of 1874, does not provide for such cases. This is a Bill to enable the Government of the day to deal with such cases and also to derive a revenue from lands within goldfields areas, and at the same

time contribute to the development of the mining industry in those respective goldfields; so that there will be a triple advantage—first, a revenue; second, taking from the earth riches known to subsist there; and third, the employment of labour and the advancement of mining enterprise. The measure will give facilities that have been wanted for a number of years, and will dispose of a difficulty in the administration of the Gold Fields Act of 1874. I think this amending Bill will be advantageous to the country in many respects, and I beg to move that it be now read a second time.

The HON. A. C. GREGORY said: Hon. gentlemen,—I look upon this Bill as an instalment of useful legislation, because there will occur a great number of cases in which reserves have been made on goldfields for purposes which only apply to the surface, and it will give an opportunity to persons who may choose to enter on the land to obtain the mineral wealth that may be beneath. A large piece of land may be reserved for a botanic garden, a park, or a school, and in none of those cases would mining under the reserve injure it for the purpose for which it is reserved; and there is no reason why a mine should be locked up simply because the surface has been reserved for another purpose. Hitherto, there has always been great difficulty on the part of the Government and a great deal of opposition on the part of the miners to the extension or establishment of reserves within goldfields, simply because, as the law now stands, it has the effect of locking up land from mining enterprise. It will therefore be much easier for the Government in future to manage the question, because they will not be putting a stop to mining under the land set apart for reserves and will be better able to serve the requirements of the population of the field as regards the utilisation of the surface. I know of an instance in which a very valuable mine extends in the direction, and passes under a reserve granted for school purposes, and I know that mining under that reserve would not have the slightest effect on the surface, because in gold-mining there is such a small amount of excavation. Part of the railway between Ipswich and Brisbane is undermined for about a quarter of a mile; the railway is running over the roof of the mine. No accident has happened, and things are going on as quietly as if no mining operations whatever were carried on in the vicinity of the railway. Very few persons except the engineers are aware that there is a change of level, and possibly no change has been detected by the engineers.

The POSTMASTER-GENERAL: I do not think anybody ever heard of it before.

The HON. A. C. GREGORY: I have walked under it myself; therefore I am personally acquainted with the fact that the line is undermined. I simply mention it to show that land may be mined and worked for minerals without in the slightest degree deteriorating the surface for ordinary uses. I consider the Bill a useful piece of legislation, which will improve our present laws with regard to goldfields.

The HON. A. J. THYNNE said: Hon. gentlemen,—I think we are indebted to the Hon. Mr. Gregory for calling attention to the fact that the railway between Brisbane and Ipswich is undermined. There can be no excuse for any accident which may happen now after public attention has been drawn to the matter. I was about to call attention to one weakness in this Chamber before the Hon. Mr. Gregory rose, and I think I will do so now. Though we have every other interest represented here, I do not think that any one of us can claim to be a member of the

mining community, though I am inclined to make an exception after the remarks of the Hon. Mr. Gregory. We can scarcely have a better representative on every subject appertaining to mining. At the same time it is a matter that is worthy of consideration whether in the constitution of this Chamber we should not have as many interests represented as possible.

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

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

### JUSTICES BILL.

#### CONSIDERATION OF THE LEGISLATIVE ASSEMBLY'S MESSAGE OF DATE 16TH SEPTEMBER.

On the motion of the POSTMASTER-GENERAL, the Presiding Chairman left the chair, and the House went into committee to consider the Legislative Assembly's message.

The POSTMASTER-GENERAL said the message now under consideration read as follows:—

“MR. PRESIDING CHAIRMAN,—

“The Legislative Assembly having had under consideration the Legislative Council's amendments in the Justices Bill, beg now to intimate that they—

“Disagree to the amendments of the Legislative Council in clause 4, and omitting clauses 8 and 9, for the following reasons:—

“It is highly convenient that the chairmen for the time being of divisional boards should exercise the functions of justices, and it is not desirable to depart from the practice which has been followed for many years, of issuing a general Commission of the Peace at the beginning of each year. It would, therefore, be impracticable to include the names of the chairmen of divisional boards in the general commission, and it would cause great administrative inconvenience if they were appointed from time to time upon their being severally elected in the months of February and March. Moreover, as the appointment could not be made for a temporary period only, it would become necessary, in order that they might exercise the functions of justices during their whole term of office, to include them all in the general commission for the following year, and then either to retain them on the commission for the whole of that year (which might be inexpedient), or else to adopt the course, open to obvious objection, of formally removing them from the commission if they should not be re-elected. The present law, which has now been in force for several years, is believed to have worked satisfactorily and to the public advantage, and it has never yet been found necessary to exercise the power proposed to be conferred by the 9th clause, which is sufficient to effectually prevent any unfit person from taking part in the administration of justice. It is conceived that the provisions relating to the exercise of the functions of justices by chairmen of divisional boards properly find place in a Bill dealing with the whole question of the appointment of justices of the peace.

“Propose to amend the amendment in clause 15 by omitting the words “or other,” and propose as a consequential amendment to omit the word “justice” before those words.

“In which amendments they invite the concurrence of the Legislative Council.

“Disagree to the amendment of the Legislative Council in clause 94, because it might seriously diminish the beneficial operation of the provisions of this clause, and it is not easy to define the circumstances under which it would or would not be practicable to procure the attendance of a justice or clerk of petty sessions.

“And agree to the remaining amendments in other parts of the Bill.

“WILLIAM H. GROOM,

“Speaker.”

He thought, now that a considerable period had elapsed since the amendments were made by that Chamber, hon. gentlemen might be disposed to view with some favour the original form of the Bill, which provided for the *ex officio* appointment of justices of the peace. It was convenient perhaps that he should repeat the

position that those gentlemen would hold. Chairmen of divisional boards, on their election to the position of chairmen in local districts would be *ex officio* justices of the peace only for their respective districts, and at the termination of their office they ceased instantly to be justices of the peace. Now, as the message pointed out, it would be administratively inconvenient to gazette those respective chairmen of local authorities every time they were elected, because the elections took place subsequent to the issue of the Commission of the Peace for the year. It had been the practice for some time to issue one roll every year, and no new names were added to that roll unless it was found that in some part of the country there was a deficiency of magistrates, and that public inconvenience resulted therefrom. That had been the course followed for some time back, and it was found very convenient. No evil had resulted from that. Suppose, now, a chairman of a board died or resigned, his successor would necessarily have to be gazetted a justice of the peace, and at the end of his period he would have to be gazetted out again; that was to say if the amendment were insisted upon. He thought it very desirable that what was the existing law should remain in force. No inconvenience had resulted from it. No one had had his feelings hurt by being a justice of the peace during his term of office as chairman and ceasing to hold the position when he ceased to hold office. It was considered requisite in the different districts of the colony, and highly convenient, that the chairman for the time being of these divisional boards should have a position on the bench. They were men who had the confidence of the different districts over which they presided. They had special local knowledge, and, moreover, it must not be forgotten that their functions of justices were confined to the different districts in respect of which they were chairmen. It was considered advantageous to have men like that on the bench, especially if they took any interest in the administration of justice, and it was also considered an undoubted advantage that they should cease to hold the position of justices of the peace when they ceased to be chairmen of divisional boards. The other matters dealt with in the message he would not refer to, because they were consequential amendments, and quite formal, but he trusted hon. gentlemen would arrive at the conclusion that it was better to fall in with the unanimous wish of those in another place. He therefore respectfully begged to move that the Committee do not insist upon their amendments in clause 4, and the omission of clauses 8 and 9.

The HON. F. T. GREGORY said the question now before the Committee was one that had been very thoroughly ventilated on several occasions, but notwithstanding the long discussions, and the very fair arguments advanced by the Government for the retention of the clause in the Bill, providing that chairmen of divisional boards should be *ex officio* justices of the peace, still he could not see the force of the arguments advanced. The question narrowed itself up simply to this: In the majority of instances those persons who were elected, not only members of a board, but also elected chairmen or presidents of shire councils, had a fair prospect of being already on the Commission of the Peace, and that removed a very considerable number from the category of the Justices Bill, under which they would, if elected chairmen, become *ex officio* justices of the peace. Then if they narrowed up the question still further they would find that there were some individuals who might really be thoroughly qualified by education, social standing, and their position in the country as men of integrity and fair ability, for the

position of justice, and there would be very few instances, if the amendment was agreed to, where the Executive of the day would be called upon to place such men on the commission, they not having been already appointed. If there was a qualified person who had been elected a chairman of a board, and if the Government of the day considered it to be their duty to remove him from the Commission of the Peace, they would be placed in a very invidious position in having to remove his name in face of the vote not only of the electors but the vote of the board, because the chairman only took his seat by vote of the board. It would become the absolute duty of the Executive of the day, in defiance of that person being elected, to refuse to sanction his position as justice of the peace. They would have to deprive him of a right which he obtained through the vote of his fellow electors and boardsmen. Well, on the contrary, if the amendment were agreed to, the Executive of the day would be placed in this position: they would have no other duty to perform than to abstain from putting such a man on the Commission of the Peace, and there would be no public act of censure. Consequently all the arguments which had been advanced by the Postmaster-General appeared to him to be arguments on the other side. He tried to follow the hon. gentleman, and he could not see that the amendment placed the Government in a false position. Furthermore, the objection had been raised that it would necessitate a certain additional number of appointments being made annually, but, as had been pointed out by other speakers on the question, that was a mere clerical function. The Colonial Secretary simply gave instructions to a subordinate to prepare the usual notice for the *Government Gazette* and the thing was done. It had been argued by the Postmaster-General that it would be invidious to put some on and leave some off, but he did not see that. It would be much less invidious than to have to dismiss men from the Commission of the Peace. Another argument was that a certain time would elapse between persons being elected chairmen and their being empowered to act as justices; but he could not see that any harm would result from that. There was no function that the chairman of a board would have to perform that would be left undone if he was not a justice. He had been chairman of a board ever since the divisional board system was introduced, and he could not call to mind one single instance in which he should have been in any way embarrassed if he had not been on the Commission of the Peace. He felt very much inclined to insist upon the amendment for the reasons he had stated, but he would be very much guided, of course, by the opinions of men with as much experience as himself, and he should be glad to hear what they had to say on the matter.

The HON. W. G. POWER said he did not see why they should not let the people of any locality elect their own justices of the peace. That was the effect of the amendment. The same system existed in Victoria, and the people who were chosen as chairmen were generally gazetted as justices for the remainder of their lives. He did not see why such a system should not exist here.

The HON. W. HORATIO WILSON said the matter had been very well discussed when it was before the House on a previous occasion, and he did not think he could add anything to the arguments which he used then. It appeared by the message which had been sent to them that it was positively impracticable to include the names of chairmen of divisional boards in the annual list, and that it would cause great administrative inconvenience. Well, if that was the case, was

it worth while for hon. gentlemen to insist upon their amendments? It would be much better to let the amendments go if the Government would be placed in such serious difficulties as had been pointed out. No new law was proposed. The provision of the clause under discussion was contained in the Local Government Act, and he therefore trusted that the Council would not press the matter under the circumstances.

The HON. W. FORREST said the matter presented itself to his mind in a very simple form. If chairmen of divisional boards were competent to be made justices of the peace let the Government make them justices of the peace; if they were not fit to be justices they should not be made justices under any condition whatever. If the members of a board chose to elect a chairman who is unfit to occupy the position of justice of the peace let him suffer the inconvenience of being prohibited from acting as a justice of the peace. If he was fit to occupy the position he would not be prohibited from acting, for he must be a very degraded being indeed whom the present Government would not put on the Commission of the Peace. He did not see why the clauses should be retained because the omission would cause the Government to suffer inconvenience.

The POSTMASTER-GENERAL said he did not know what the hon. member meant by saying that the present Government would appoint any individual a justice of the peace.

The HON. W. FORREST said he did not like to mention names, or he would very soon tell the hon. member.

The POSTMASTER-GENERAL said that no Government in any of the colonies had ever had more regard for the purity of the Commission of the Peace than the present Government, and he could give the gentleman severe and unpleasant proofs of unsuitable appointments made by those with whom he was reputedly more friendly than he was with the present Government.

The HON. W. FORREST: Give us the proofs.

The POSTMASTER-GENERAL said the present was not an occasion for giving proofs, nor was it an occasion for making gratuitous assertions of an ambiguous character. The hon. gentleman said that the responsibility of appointing chairmen as magistrates should rest with the Government of the day. The hon. member was an advocate of local administration; he wanted decentralisation of administration, and yet he, an old colonist, mistrusted the local authorities in that he believed they were not able to elect a chairman who might, by virtue of his office, act as magistrate within his district. He wanted to fasten on the Government the responsibility of making all the chairmen justices of the peace, or selecting a number of them to act in that capacity. Was it right that the Government should make inquiries as to the character or qualities of chairmen as regarded their suitability to act as justices of the peace? No. Wherever the ratepayers determined through the votes of their representatives to elect a chairman, they put on him an *imprimatur* of standing sufficient to justify the Government in allowing him to exercise the functions of justice of the peace by virtue of his office. It was only in exceptional cases in which representations would be made to the Government that chairmen should be prohibited from acting, and he would ask which was simpler—for the Government to examine into 150 cases, or to examine into a case when occasion might arise? That might only be once in fifteen years, because one had not arisen during the past five years. The latter was easier decidedly, and no Government

composed of the materials of which the present Government were formed would hesitate to issue the prohibition in the *Government Gazette* if a chairman was unfit to act as a magistrate. It would be a lesson to the colony, and a proper snub to the intelligence of the individuals who elected that particular chairman.

The HON. A. J. THYNNE said that when the matter was under consideration before he opposed clauses 8 and 9, because it seemed to him that they altered the usual course adopted for the appointment of magistrates. He then pointed out that the source from which all appointments to the magistracy should come was the Crown, and unless some very good argument were given to prove the contrary he should hold to that opinion. It was not safe to refer to individual instances, but they knew that week after week, and month after month, accounts of disgraceful proceedings in connection with municipal councils and divisional boards were recorded in the newspapers, and if those proceedings took place outside the offices of local authorities some of those people would probably be taken into custody.

The POSTMASTER-GENERAL: We have heard of those things in Parliament.

The HON. A. J. THYNNE said they had, and he wished that those who forgot themselves so far as to commit breaches of decorum should not be given the functions of justice of the peace. Where there was a feeling of that kind in a local body, respectable men were kept out, and the brawlers succeeded in getting themselves put into the chair.

The POSTMASTER-GENERAL: You forget the prohibition clause.

The HON. A. J. THYNNE said that the answer did not sound well after the argument of the hon. gentleman that it was easier to deal with one case for prohibition than to investigate all the different appointments which had been made. Easiness for the Government was the argument on which the clause was supported, but that was a wrong argument; it was based upon a misconception of the duties of the Government in issuing the Commission of the Peace, because they ought not to allow anyone to exercise the functions of a magistrate unless they were thoroughly satisfied that he was a proper person to have the appointment, no matter whether he was chosen chairman of a local body or not. In another place, on the discussion of a Bill which would probably come before the Council, it had been decided that the prohibition against hotelkeepers becoming members of divisional boards should be removed. In that case an hotelkeeper might become a member of a divisional board, and might be a very good member, and the other members of the board would have to choose between taking an inferior chairman and putting the hotelkeeper into a position inconsistent with his occupation. It would then be the duty of the Government to issue a proclamation prohibiting that chairman from performing the functions of a justice of the peace unless he retired from his business. That was an inconsistency and would be an impropriety which he should be very sorry to see exist.

The HON. F. T. BRETNALL said he should be better able to appreciate the arguments which had been advanced against the motion of the Postmaster-General if it was intended to introduce some innovation into the legislature of the colony. By referring to the Divisional Boards Act of 1879 it would be found in clause 50 that the provision had existed since that time. It existed also in the Local Government Act. The mayors of all municipalities were *ex officio* justices of the peace, and chairmen of all divisional boards were

*ex officio* justices of the peace. He made those remarks because it was asked a few minutes ago why did the Government want to pass this new thing? There was nothing new about it, and to his certain knowledge it was eighteen years old in New South Wales. If it were an innovation he could understand some of the arguments used against it, but seeing that it was a matter already on the Statute-book in two distinct Acts, he could not understand why the subject should be treated as if the Government were introducing some outrageous novelty. That was one aspect of the question. But the question had another aspect. Had the provisions existing in two Acts applicable to municipalities and divisional boards been found hitherto difficult in operation? Had they brought about any scandal to the country, or any embarrassment to the Government? Had there been any objection raised to mayors or chairmen of corporations occupying the position of justices? If not, all the arguments brought forward against the clauses to-night fell to the ground. If the thing in operation had been found to work smoothly, without difficulty, and in any degree efficiently, there were arguments enough why they should not interfere with what already existed. He could very easily understand that a case might arise in which a man of objectionable character might employ means to secure the position of chairman, because of a little ambition he might have to occupy the perhaps higher position of magistrate; and he thought he was safe in saying that he had known one case of that kind to occur, but he had not heard of another. In that particular case the common sense of the voters prevented that gentleman from realising his ambition, and he thought they might leave the matter to the ratepayers and to the members of divisional boards, as their common-sense and judiciousness would sufficiently influence them to refrain from placing in the position of chairman a man who would, by his lack of moral character, be unfit to discharge the functions of a magistrate. It had been said, "Let the Government make these men magistrates;" but he thought a sufficient answer had been given to that. The elections took place in February, and a supplementary Commission of the Peace would have to be issued to include them all—good, bad, and indifferent. If there had been difficulty in the past in regard to the operation of the existing law, then he thought the majority of hon. members would be prepared to remove that difficulty; but seeing that there had not been any difficulty he did not feel called upon to create between the two Chambers a difficulty in legislation for which there did not seem to be any justifiable reason. He did not know whether those members of divisional boards who had misbehaved themselves, as stated by the Hon. Mr. Thynne, were private members of boards or chairmen, nor did he recollect a case in which a chairman of a board had so misconducted himself as to disgrace the office of justice of the peace. So that if the provision in existing Acts had hitherto worked without difficulty, and if in the judgment of the Government it would be of advantage that chairmen of divisional boards should exercise the functions of justices of the peace during their respective terms of office, and only within their respective divisions, he did not see that there could be any objection to the provision. As a matter of fact, whether they exercised all the functions of justices of the peace or not, it was morally certain that they would have to exercise the functions of magistrates so far as the licensing bench was concerned.

The HON. A. C. GREGORY said that hitherto the debate had been confined chiefly to the

expediency of chairmen of municipalities and divisional boards being justices of the peace *ex officio*; but in addition to that question they must remember that even the advocates of the principle had based their arguments on the existing law. They were now asked to include the provision in the Justices Bill, and at the same time it was understood that in a few days they would receive from the Assembly a new Divisional Boards Bill which would embody some very important provisions specially touching upon the expediency of chairmen being *ex officio* magistrates. Not only that, but they were informed by the Government that it was their intention to bring in a Bill as soon as possible to alter the Local Government Act; and the present was not a proper time to fix a hard-and-fast rule that chairmen of local authorities should be justices of the peace. The proper time would be when they took up the question as to their qualifications, and how they were to be appointed chairmen. If they left the provisions out of the Justices Bill they would be free to place exactly similar clauses in the new Local Government and Divisional Boards Acts; but if they retained them in the Justices Bill they would not be able to deal with the question afterwards except by repealing the clauses, which would be highly inconvenient. If they were certain that those expected Bills would simply be consolidations of the existing law, they might deal with the question now; but they had no such assurance; in fact, they saw a very important amendment made in the Divisional Boards Bill which would specially affect the operation of the clauses under consideration by admitting publicans to seats on divisional boards. Publicans might be very estimable individuals, but it really put a man into a position of serious temptation to permit him to exercise certain functions which had hitherto been considered incompatible with his occupation. He did not see how they could consistently agree to the clauses and thus tie their hands, when they did not know what were the provisions of the Bill coming before them. If they left the clauses out now they would be free afterwards to legislate in the best way possible for the welfare of the colony.

The HON. J. D. MACANSH said he voted against the two clauses before, and the arguments he had heard on the present occasion confirmed him in the opinion that they should be left out. In fact, he did not see any necessity for chairmen of divisional boards being magistrates at all. The Postmaster-General had stated that it would be convenient for chairmen to be magistrates *ex officio* where there were few magistrates; but he did not know any district in the colony where there were few magistrates. He thought there was a superabundance of magistrates, and the majority of the men likely to be elected chairmen were already magistrates. If the Government thought that chairmen ought to be magistrates, it would be a very easy thing to appoint them justices after they were elected. He hoped hon. members who voted against the clauses before would vote against them again.

The HON. A. RAFF said the strongest argument he had heard in favour of retaining the clauses came from the Hon. Mr. Gregory, who said that all divisional boards were elected by the ratepayers, and that the chairmen were elected by the members of the boards. He thought that was a strong argument in favour of retaining the clauses, and he should again vote in favour of them.

The HON. W. FORREST said he thought the Postmaster-General should be grateful to the Hon. Mr. Thynne for pointing out what would be a very serious dilemma if the clauses were retained. When the previous Acts were passed

publicans were under a disability in regard to becoming members of boards, but a clause had been inserted in a Bill in another place removing that disability. Therefore, if the clauses were allowed to remain in the Justices Bill, the Government would be placed in a dilemma, as he would show. Under one Act a publican could become a member, and if he could become a member he could become chairman of a board. Under another Act publicans were prevented from being magistrates; but if the clauses were retained, a publican might become a magistrate by virtue of his office. He would put it in the form of a syllogism. John Smith was chairman of a board; a chairman of a board was a magistrate; therefore John Smith was a magistrate. Take another. John Smith was a publican; a publican could not be a magistrate; therefore John Smith was not a magistrate. How were they going to get out of that trouble? Instead of putting the Government in a dilemma, hon. members who opposed the retention of the clause were helping them very much.

The POSTMASTER-GENERAL said it seemed to him that the whole question came to this—that there was a certain number of members in that Committee who wanted to govern the country in their own way, who wished to form the Bill as they pleased, and who would not accept the machinery placed before them by the Executive of the day and unanimously approved by the representatives of the people in the Legislative Assembly. That was just the position. The Hon. Mr. Forrest had said that the Government ought to be thankful to the Hon. Mr. Thynne for having drawn attention to what everybody knew, and for which he was sure the Hon. Mr. Thynne never expected any thanks. Perhaps, however, the Hon. Mr. Forrest did not know it, and desired another week to think out the matter. He (the Postmaster-General) was very much inclined to give the hon. gentleman another week to consider the subject, in order that he might recede from the crude notions he had with respect to that clause and its working.

The HON. W. FORREST: I do not want another minute.

The POSTMASTER-GENERAL said the hon. gentleman had also stated that he wanted to save the Government from a dilemma. Well, it was the first time he (the Postmaster-General) had ever heard him take an interest in the convenience and study the comfort of the Government, and he hoped it was but the beginning of a consideration on the part of the hon. gentleman which would be for their benefit collectively and individually. But he would return to the question before the Committee. There were always two parties to an agreement. The other party to the agreement represented by the measure under discussion unanimously agreed that they wished to see it the law that chairmen of divisional boards should be justices of the peace. Such a law already existed, and, as had been pointed out by the Hon. Mr. Brentnall, no evils had arisen from it. But some hon. members said they would have the law made another way, and there was a great deal of trouble over what after all was a very small matter, and not worth a scintilla of the talk they had had about it that evening. Every hon. gentleman who had argued in favour of not accepting the views of the Legislative Assembly, as indicated by the message that had been received, had argued in favour of the chairmen of municipal councils and divisional boards being made magistrates, but said they should be appointed by the Government.

The HON. A. J. THYNNE: If they are fit,

The POSTMASTER-GENERAL: What was the difference of recognising the fitness of 100 men and discovering the unfitness of one? There was a great deal of difference. Anybody who had taken an interest in the public affairs of Queensland knew that it had been the practice ever since 1861—he could not say from separation, as he was not in the colony before 1861—for the Government of the day, as a matter of form to place the names of the mayors of the different municipalities in the country on the Commission of the Peace. There was only one instance that he knew of—and if there was a second he would recollect it—in which that rule had not worked very satisfactorily. He was now speaking of the time antecedent to the passing of the law spoken of by the Hon. Mr. Brentnall, and he repeated that anterior to that date the Government of the day appointed mayors as magistrates, and that their names were afterwards permanently retained on the Commission of the Peace. He had occasion to remember that it was regarded by the Government as a duty to appoint mayors throughout the country as justices of the peace—that it was done in the case of those functionaries at Roma, Drayton—now Toowoomba—Ipswich, Brisbane, and other places, and they were generally considered suitable men for the position. Was it surprising then, under the circumstance—the pregnant circumstance—that for twenty-five years the mayors of the various municipalities of the colony had been appointed to the position of magistrates, and had resulted in no evil, and that only one case was known throughout the whole colony where it was found that a mayor was unsuitable for the position—that they should have what was termed self-acting machinery, by which the chairman of a divisional board or a municipal council should take his position as a magistrate of the territory, and that that office should be terminated when he ceased to be chairman? It was not, to his mind, at all surprising that that should be the result. However, he was bound to make this intimation, that the measure before them was one the passing of which ought not to be delayed. He would be very sorry if the present session should pass without the Bill becoming law. It had received much attention in that Committee on more than one occasion; it had been thoroughly revised since it was first introduced, and there was little, if anything, more that could be done to it for some years to come; and he would be exceedingly sorry to think that there was a majority in that Committee who would send the Bill back, insisting on the amendment in face of the unanimously expressed opinion of those who represented the people and the local institutions of the country, and also came more into touch with the people than the members of the Council. He hoped hon. gentlemen would not refuse to accept the fair and courteous message, couched in such excellent terms, and giving the most excellent reasons why the the proposal of the Assembly should be agreed to. He sincerely trusted that better counsels would prevail than such as would throw any doubt whatever upon getting that measure through at that particular time. It was very much wanted—very much indeed. Those who had an intimate knowledge of the working of the justices' law throughout the country must know that it would be one of the greatest boons to the benches of the colony that had ever been brought about in any country. When that measure passed the justices' law in this colony would be more simple, much more condensed, codified as it was there, and much superior to anything that existed in any other part of the British dominions. He said without any hesitation that the justices' law in the British

Islands was not in the same simple and convenient form as the law in this colony would be as embodied in that Bill. It had been very properly pointed out that the clauses which it was proposed to omit were not an amendment of some existing law, but merely a re-enactment of a provision which was in force at the present time. However, he would say nothing further on the subject. No argument would convince a man against his will. He left the Committee just as he found it when they commenced that evening; but he certainly refused to accept any responsibility after what had transpired, for any result other than what would follow from accepting the message of the Legislative Assembly. It was nothing to say that the Local Government Act might contain a similar provision. It might or might not include such a provision; they knew nothing whatever of that measure, and it might never reach them. He hoped the decision of the Committee would be given immediately, and that it would be such as he hoped for.

The HON. A. J. THYNNE said he thought that if the Postmaster-General wished to get that measure through in an amicable way he had taken the very worst course for himself in the speech he had made just now. The Committee had been addressed by him as he had heard it addressed on some previous occasions, and he had never heard that tone of argument adopted without feeling that it was an insult to the members on that side, and to the Committee.

The POSTMASTER-GENERAL: Nonsense!

The HON. A. J. THYNNE said he considered that the Postmaster-General in holding out a threat to the Committee was not fulfilling his proper functions in that Chamber.

The POSTMASTER-GENERAL: I made no threat.

The HON. A. J. THYNNE: If he was not mistaken as to the words the hon. gentleman used, they implied something very much like a threat, and he trusted that the Postmaster-General, or whoever might fill his position in future, if they wished to get a Bill considered calmly and quietly—would not offer such arguments as had been that evening addressed to the Committee by the hon. gentleman. Whenever he (Hon. Mr. Thynne) heard arguments of that nature they always had the effect of making him more determined in his opposition. The Postmaster-General had not attempted to explain what course would be taken when a man who was an hotelkeeper was elected chairman of a divisional board. There was no answer to be offered. There was an inconvenience, a palpable inconvenience, that could not be got over. Either the Government must put a black mark against the name of the man elected to the position of chairman of the board by proclaiming that he was not fit to exercise the functions of a magistrate, or they must permit him to continue a justice and act in that capacity. He did not see any necessity to discuss the matter any further, and he had not heard any arguments advanced to induce him to change the opinion which he had already expressed to the Committee.

The POSTMASTER-GENERAL said the Hon. Mr. Thynne had stated that it would be left to the Government if a publican was elected chairman of a divisional board to gazette him as unfit to be a justice of the peace. No such thing as that would take place, as clause 9 simply provided that the Governor in Council might prohibit any person who was a justice of the peace, by virtue of his office as chairman of a local authority, from acting as a justice of the

peace. A chairman who was a publican would not be declared unfit to act as a justice of the peace, but might be simply prohibited from acting in that capacity. He thought the point adverted to by the Hon. Mr. Thynne might very well be left to be settled by the Government of the day, whoever they might be.

The HON. F. T. GREGORY said he would hardly have prolonged the debate by offering any further observations were it not for the remarks that had just fallen from the Postmaster-General. The hon. gentleman had stated that it was the unanimous desire of that branch of the legislature which was more in touch with the people that a certain thing should be done. He (Hon. Mr. Gregory) denied the position the hon. gentleman assumed, and contended that hon. members in that Committee were just as much representatives of the people as members of the other Chamber. As far as being in touch with the people was concerned, he would undertake to say that if the members of that Committee were called upon, either individually or collectively, to draw any body of men to their support in any reasonable proposition they would carry as many with them as any man or any set of men in the Legislative Assembly, which was sometimes called the popular Chamber. He affirmed that the Council was more popular with the people than the Chamber of elected members. They were fully as much in touch with the people as members of the representative Chamber, and in saying that he did not at all detract from their position, either individually or collectively. With regard to the remarks made by the Hon. Mr. Raff, that his (Hon. Mr. Gregory's) arguments supported the proposition that the chairmen of local authorities should be magistrates because they were the elect of the elect—he would point out that if they adopted the principle involved in that contention, they must elect all their magistrates, elect their judges, and in fact elect everybody in any position of authority. He sincerely trusted that they were not going to become so thoroughly Americanised that everything was to be done by election. They knew what damage and injury might be inflicted upon a country by following popular feeling. Another argument that had been brought forward, and of which a great deal had been made, was that the clauses which it was proposed to omit merely maintained an existing law which had been in force a great many years. But because a law had been in existence for a long time, it surely did not follow that it should still be maintained. If they found very good and solid reasons why it should be amended, and it was the opinion of hon. members that it was desirable that an alteration should be made, why should they adhere to any law on the ground that it was already on the Statute-book? Their laws were not like the law of the Medes and Persians. There was, therefore, no force in that argument. Then, with respect to what he conceived to be the final point to be considered, the leader of the Government in that Chamber wanted to force the Committee to pass two clauses in the Bill which would practically bind them to take similar action with regard to another measure, which it was expected would shortly be brought before the Committee. If they did that they would simply be driving themselves into a corner. By accepting the dictum of the Postmaster-General they must, as a matter of course, pass a provision in a Bill which would probably be introduced, instead of leaving themselves open to discuss that subject when it came up again, and to arrive at a decision after due and careful consideration. The omission of those clauses would not prejudice in any

way the Government of the country or the administration of justice, and why should they embarrass that Committee or the other House by retaining them? Looking at all the circumstances of the case, he could not comprehend upon what grounds the Postmaster-General wished to insist upon the Committee retaining those two clauses in the Bill. He trusted hon. gentlemen would adhere to the decision they had arrived at previously.

The POSTMASTER-GENERAL said there was something peculiar with some hon. gentlemen in that Committee whenever the representatives of the constituencies of the country were referred to as persons whose opinions were worthy of some attention. They seemed to think it was a subject for cavil. It was because some hon. members were evidently losing sight of the fact that he had brought it under the notice of the Committee that one of the three branches of the Legislature—namely, the Legislative Assembly—for he observed that in other countries it was a common thing to speak of the respective branches of the Legislature by name, and not say another place, as was sometimes done in this colony—had unanimously come to a certain conclusion upon the subject before the Committee. There appeared to be a disposition to omit from consideration the fact that fifty-six representatives of the constituencies had unanimously expressed their wish that the clause in question should be retained, and he thought it was his duty to call attention to the circumstance. He believed he would have been wanting in his duty had he not referred to it incidentally. It was a fair argument to say that that Chamber should recognise the decision—the reiterated decision—in that message of the branch of the Legislature which comprised the representatives of the constituencies of the country in respect to that matter. That was the whole question. He did not wish the Committee to pay any attention to that statement unless they chose. They might cast it from them as they pleased. He adverted to it, as he had said, believing it to be his duty to call attention to what were the expressed wishes of the Assembly in regard to that subject. He was not inclined to say anything further on the subject. Too much had been made of it, and doubtless most hon. gentlemen were tired of the discussion. He hoped they would come to a decision immediately.

The HON. F. T. BRENTNALL said the arguments seemed to be broadening out. He thought there were hon. members who seemed to have something more to say, and he would, therefore, move that the Chairman leave the chair, report no progress, and ask leave to sit again.

Question put, and the Committee divided :—

CONTENTS 10.

The Hons. T. Macdonald-Paterson, W. H. Wilson, H. C. Wood, G. King, W. P. Taylor, J. D. Macanish, W. Pettigrew, J. C. Heussler, A. Raff, and F. T. Brentnall.

NOT-CONTENTS, 6.

The Hons. W. Aplin, W. Forrest, A. J. Thynne, W. G. Power, A. C. Gregory, and F. T. Gregory.

Question, therefore, resolved in the affirmative.

The House resumed; the CHAIRMAN reported no progress, and obtained leave to sit again on Wednesday next.

The House adjourned at twenty-eight minutes to 9 o'clock.