Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

THURSDAY, 28 JULY 1887

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LEGISLATIVE ASSEMBLY.

Thursday, 28 *July*, 1887.

Formal Motions.—Copyright Registration Bill (Queensland)—third reading.—Mineral Selections at Mount Perry.—Petition—University.—Motion for Adjournment.—Valuation Bill—third reading.—Water Law Bill—second reading.—Adjournment.

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

FORMAL MOTIONS.

The following formal motions were agreed to :—

By Mr. KATES—

That there be laid upon the table of the House, copies of Reports from the Under Secretary of Agriculture, and from the Hydraulic Engineer, in connection with their recent visit to the Severn and McIntyre Rivers.

By Mr. MORGAN—

That there be laid upon the table of the House, a Return showing the amount of revenue derived from the Public Pounds within the colony during the years 1885 and 1886 respectively.

By Mr. MORGAN—

That there be laid upon the table of the House, copies of all Papers and Correspondence between the Warwick Hospital Committee and the Government relative to the establishment of a Hospital for Incurables.

COPYRIGHT REGISTRATION BILL (QUEENSLAND).

THIRD READING.

On the motion of the ATTORNEY-GENERAL (Hon. A. Rutledge), this Bill was read a third time, passed, and ordered to be transmitted to the Legislative Council for their concurrence, by message in the usual form.

MINERAL SELECTIONS AT MOUNT PERRY.

Mr. ADAMS, in moving—

That there be laid upon the table of the House,—

1. Copy of the original applications by persons now claiming the freehold of mineral selections 399 and 372, Mount Perry;

2. Copy of original survey;

3. Copy of Report of the Commissioner of completion of fulfilment of conditions ;

4. Copy of confirmation papers by the Minister ;

5. Date of issue of the deed of grant or grants, and all correspondence of any person or persons in connection therewith ;

6. Copy of the deed of grant or grants of said selection or selections ;

7. Copy of all entries in the official register, with all annotations thereon.

—said: Mr. Speaker,—I called "not formal" to this motion because I thought it advisable to give some information as to why I ask for these papers. I find that in October, 1886, a person named Henry Gillon, with five others, made application to the goldfields warden at Mount Perry, Mr. Armstrong, to be allowed to take up six men's ground at Boolboonda. After the warden had seen the men he found that their application was for land on selection No. 372, and he also found on looking over the maps in his office that this particular selection was marked as "forfeited." He consequently granted the application for the six men's ground, and they started work on it at once. They worked on it for a considerable time, and then applied for a renewal; and on applying for the renewal it was granted to them a second time. They still kept on working, and got nothing for the first month; but when they made application for the third time for a renewal they had certain prospects that were likely to pay, and pay handsomely. On making application for the third time they found that this particular selection was freehold. Previous to this these persons had written to the Mines Office in Brisbane, and asked for a lithograph tracing of the field, with the whole of the selections marked either "freehold" or "forfeited," and they received a map from the Mines Office showing that this particular selection had been forfeited. They kept on working, as I have already said, until they got some prospect of good for themselves and good to the country, and at the last moment it was discovered by the officers of the department that the selection was not forfeited. I am told, however, that the conditions were never complied with, and I am also informed that a grant was not only given for this land, but also for the adjoining selection—that the two selections were included in one grant. Therefore I think it nothing but right to represent the matter to the House, so that if there is anything wrong it may be found out, and the wrong remedied. We know very well that it is not capitalists who try to find valuable mineral fields, but plodding working men, and that it is when these men have found good prospects that the capitalist comes in. I think, then, that in justice to these men we should have a searching inquiry into the matter. I have here in my possession a map, which is verified by the land commissioner at Bundaberg as correct, and it shows that the particular selection to which I refer was forfeited. The men, however, were allowed to go on spending valuable time and money, and the selection was not declared not forfeited till the last moment. No doubt when the papers are laid on the table of the House we shall have a better opportunity of ascertaining whether the facts are as alleged. I think I have said quite enough to warrant the Government in laying the papers on the table of the House. I am thoroughly convinced myself that the particular person, Henry Gillon, was the man who fulfilled the conditions on one selection, and that there was nothing done on the other selection. I am informed that application has been made to the Government for compensation in this matter, but what the amount of that compensation is I am not at liberty to say; I am not aware what it is. I hope the motion will pass.

The MINISTER FOR LANDS (Hon. C. B. Dutton) said: Mr. Speaker,—I do not remember anything of the circumstances connected with this case. There is no objection whatever to the papers being given to the House, and they will be laid on the table in the course of a day or two.

Question put and passed.

PETITION.

UNIVERSITY.

The PREMIER (Hon. Sir S. W. Griffith) presented a petition from the council of the municipality of Brisbane, praying that the necessary steps might be taken for the establishment of a university in Queensland; and moved that it be read.

Mr. MOREHEAD said: Mr. Speaker,—Is this not a petition for money?

The PREMIER: No.

Mr. MOREHEAD: I think, sir, you will rule that it is. You cannot establish a university without money, unless you do it on the land-grant principle.

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

The PREMIER moved that the petition be received.

Mr. MOREHEAD said: Mr. Speaker,—I would like your ruling as to whether the petition can be received or not. The 202nd Standing Order says that "no application shall be made by a petition for any grant of public money." The word "provision" contained in that petition can mean nothing else but an application of the public funds of the colony, and my opinion is that it cannot be received, being in contravention of the 202nd Standing Order.

The PREMIER said: Mr. Speaker,—A university cannot be established except by the Legislature. A university is a corporate body possessing certain powers which cannot be given to it except by an Act of the Legislature. We know that in all the Australian colonies where universities have been established it has been done by Act of Parliament. It is so in America, and has been so in Great Britain, where several universities have been established lately, so that it is necessary that the Legislature should establish the institution. How it is to be maintained afterwards is a different question, and the petition says nothing on that subject. It is quite competent for this House to authorise the establishment of a university without spending a single farthing of public money. The hon. member seems to think that the word "provision" means pecuniary provision, but it certainly does not necessarily mean that.

The SPEAKER said: I think I should be restraining the right of petition to this House if I were to decide arbitrarily and at once that this petition cannot be received on account of the word "provision" being used. I think the essence of a petition, as hon. members are aware, lies in its prayer, and I do not think I should construe the word "provision" to mean that the House is asked for a pecuniary grant. The practice of the House of Commons is very strict indeed. That House will not receive a petition which, directly or indirectly, asks for a grant of money; but in this particular case, where the prayer is for the establishment of a university, and the university must necessarily be established by an Act of the Legislature, I think the petition is one which the House should receive.

Mr. LUMLEY HILL said: Mr. Speaker,—I really think that the House——

The PREMIER: The Speaker has given his ruling.

The SPEAKER: Does the hon. member wish to move that my ruling be dissented from?

Mr. LUMLEY HILL: Yes; I move the adjournment of the House.

The SPEAKER: The hon. member cannot do that. If he moves the simple motion that my ruling be disagreed to, of course he will be perfectly in order in addressing the House, but not otherwise.

Mr. LUMLEY HILL: I will conclude with the motion that your ruling, sir, be disagreed to, not with any disrespect at all to you in the matter, or any doubt that you thoroughly believe that your ruling is a correct one, but I think it is a very important matter that this House should decide as to the interpretation of that objectionable word in the petition. I cannot see what "provision" means except "money"; and I think there are a good many members who will be of the same opinion. I do not wish to make any fractious opposition to your ruling, but I think this House should have an opportunity of expressing an opinion as to what "money" really means, and what "provision" means. I cannot attach any other meaning to the word "provision" in that petition than asking for money; therefore I believe the petition is objectionable, and cannot be received by this House. I move that your ruling be disagreed to.

Mr. W. BROOKES said: Mr. Speaker,—I feel that this is a matter of some little difficulty and of some delicacy, but I certainly think that the objection lies in the word "provision." We have just been told by the Premier that the assistance asked for is the passing of an Act to authorise the establishment of a university. Then why should the petition be worded so as to be a prayer to this House to take the matter into consideration? I am the more disposed to take this view because I have had a feeling for some time that this university is being somewhat forced upon the public. I may arrive at a different conclusion in course of time, but at present I am very much inclined to think that we do not want a university; I am very much inclined to think that our duty lies in rather a more utilitarian way. I have that opinion. It may be removed by further examination; but, so far as I can see, the system of education now in vogue is capable of very great amendment. I think that the style of education we are giving to our boys and girls is very fair——

The PREMIER: I must rise to a point of order, Mr. Speaker. The question is whether your ruling is correct, and not whether our system of education is a good one.

Mr. BROOKES: Mr. Speaker,—I am attempting to show why your ruling is incorrect; that is just what I am talking about. It is somewhat of an enterprise to dissent from your ruling; it is a kind of undertaking that I very much dislike; but still when I have been so bold I am sure the Premier will be the last gentleman to seek to dissuade me from showing why I dissent; and I am just stating the reason. I will not go on in that direction, because, perhaps, I have gone far enough. I think I have gone far enough to show that we had better improve what we have than aim at an institution which is really not required for the practical purposes of this colony at present.

Mr. MOREHEAD said: I think, sir, that if your ruling is to be sustained you are establishing a very dangerous precedent. I think that the words in the prayer of that petition, and the explanation given as to their meaning by the Premier himself, show clearly that the intention of the petitioners is to ask this House to grant a sum of money towards establishing a university. I think that, rather than such a precedent should be created, it would be better that the petition should be withdrawn, and presented in a form such as that suggested by the hon. member for North Brisbane, Mr. Brookes. The same result would be obtained by a differently worded petition that may be received as by this, and the Standing Order will not be endangered. If you rule that that petition does not contain a request for a money vote, or if you maintain—as I am afraid you did—that a petition in favour of establishing a university should be placed in an exceptional position, I am afraid great trouble will ensue. I am sure the Premier would act wisely if he withdrew the petition and worded it so that it would entail no breach of our Standing Orders.

The PREMIER said: Mr. Speaker,—I hope the question whether your ruling is correct is not to be confounded with the question whether hon. members are in favour of the establishment of a university or not, because, judging from observations which have fallen from both sides of the House, it would appear that any member who does not believe in paying money for the establishment of a university is to be invited to express that opinion by dissenting from the Speaker's ruling——

Mr. STEVENSON: Who said so on this side of the House?

The PREMIER: Which is entirely upon a question of form. It is a very serious thing to dissent from the Speaker's ruling: it is a thing which the House is very loth to do unless it is quite clear that the Speaker is wrong. Now, the rules contained in the text-books are all in support of the Speaker's ruling. I find in "Cushing," which is an American work, but one which is considered of very high authority:—

"The rule above mentioned applies only to direct petitions for public money, and is not to be extended beyond the strict necessity of the case; and therefore, although the prayer of a petition probably contemplates pecuniary aid, yet if the terms of it do not necessarily require so strict a construction, the recommendation of the Crown does not seem to be necessary to the receiving of the petition."

Under the English Standing Orders the recommendation of the Crown would remove the objection where an objection exists. "May" is to the same effect. So is every writer who has ever written on the subject. "May" says:—

"A petition to the Commons, praying directly or indirectly for an advance of public money, for compounding or relinquishing any debts due to or other claims of the Crown, or for remission of duties or other charges payable by any person, or for a charge upon the revenues of India, will only be received if recommended by the Crown. Petitions distinctly praying for compensation or indemnity for losses, out of the public revenues, are viewed under this category, and are constantly refused unless recommended by the Crown; but petitions are received which pray that provision should be made for the compensation of petitioners for losses contingent upon the passing of Bills pending in Parliament."

In the Canadian Parliament the rule is the same. I find in "Bourinot's Parliamentary Procedure," page 267:—

"But whilst petitions that directly ask for any public aid or for any measures directly involving an appropriation of public money are now never received, the House does not reject those which ask simply for legislation or for 'such measures as the House may think it expedient to take' with respect to public works. In the session of 1869, Mr. Speaker Cockburn decided that petitions of such a character ought to be received, as they did not come within the express language of the English rule just quoted. On this occasion the Speaker suggested that 'if it were the pleasure of the House to exclude petitions of that class in future, the proper way would be to adopt a substantive rule which would clearly shut out such petitions.' But no such rule has ever been adopted, and it is now the invariable practice to receive petitions which are expressed in general terms, and do not directly ask for pecuniary aid for public works. Such petitions are received on the same principle which allows the moving of resolutions expressive of the abstract opinions of the House on matters of expenditure."

Now, sir, I remember an instance something like this that occurred about fifteen years ago, when the Legislative Council passed a resolution that it was desirable that a railway should be constructed, I think, from Warwick to the border, and it was sent down to this House with the request that this House would concur in the resolution. The Speaker, Mr. Forbes, ruled that as the railway could not be constructed without the expenditure of public money, the resolution was one which it was not within the province of the Legislative Council to pass, and this House ought to pay no attention to it. He ruled that the motion ought not to be entertained. But in the course of a fortnight or so, the Legislative Council having adjourned in the meantime, the matter was thoroughly sifted, and it was found that the rule did not apply, as the proposition was one of an abstract character, and its terms did not necessarily involve a grant of public money. This House, therefore, dealt with the matter. I may be mistaken as to the exact details of the motion, but the question was exactly similar to this in principle. There can be no doubt, Mr. Speaker, that both on principle and authority your ruling is correct, and I trust that no hon. member will allow his personal opinions upon the subject of establishing a university to induce him to take so serious a step as to dissent from your ruling.

Mr. STEVENSON said: Mr. Speaker,—If the hon. gentleman likes to get angry with his own colleague he need not blame the other side of the House. There was not one single member on this side of the House who gave expression to his opinion in favour of the university or not; the only member who did so was the hon. member for North Brisbane, Mr. Brookes. Yet the Premier gets up and accuses members on both sides of the House of expressing opinions on the desirableness or otherwise of establishing a university. That they will have an opportunity of doing when the question is before them. As far as the Standing Order goes, I think if the petition means anything at all it means money, and I do not think it can be received. Notwithstanding the respect I have for your ruling—and I consider that your rulings from the chair are generally very impartial—in this case I think it would be establishing a precedent which might cause trouble in the future.

Mr. SCOTT said: Mr. Speaker,—This is a very different case from that instanced by the Premier. In that case it was simply an abstract expression of opinion that such a thing should be done; in this case it is a direct asking that provision should be made for the establishment of a university. It is impossible that a university can be established here or anywhere else without the expenditure of money, and a large sum of money too. It is in effect a distinct request that this Assembly should do a certain thing which may involve the expenditure of a large sum of money; it is utterly different from the case cited, which took place some sixteen years ago.

The HON. J. M. MACROSSAN said: Mr. Speaker,—I think it would have been much better for the Premier to have tried to explain what other meaning could be put upon the word "provision," instead of quoting authorities.

The PREMIER: I did that.

The HON. J. M. MACROSSAN: He should have given reasons why the petition should be received.

The PREMIER: I pointed that out before. I pointed out that there must be legislation to incorporate the institution.

The HON. J. M. MACROSSAN said: Well, I am rather surprised at the hon. gentleman's attempt to explain away the matter in that direction. The authorities which he quoted are not binding upon us at all. Our Standing Orders are our guide, and the rule has been to refuse to accept any petition which asked for the expenditure of money. Now, if this is not a direct request for the expenditure of public money it is as near an approach to it as it can possibly be. I am very sorry to be obliged to dissent from the Speaker's ruling, because, as the hon. member for Normanby said, when the question of the establishment of a university comes to be debated, every hon. member will be able to give his opinion upon it independently of the way in which he votes now. I did not hear the petition read, but I have since read it, and the moment I saw the word "provision" I was convinced that a sum of money was asked for. I shall, therefore, certainly vote against the Speaker's ruling.

Mr. KATES said: Mr. Speaker,—There can be no doubt that the Standing Order says:—

"No application shall be made by a petition for any grant of public money."

Like the hon. member for Townsville, I shall be sorry to dissent from your ruling, but I would suggest that the hon. member for Cook should withdraw his motion and that the Premier should then withdraw the petition.

The PREMIER: I shall not withdraw it.

Mr. LUMLEY HILL said: Mr. Speaker,—I an perfectly ready to accede to that proposal. I think it is a very moderate one, and I will withdraw my motion if the Premier will withdraw the petition and bring it up in a form which can be accepted even by the minority in this House. I think the prejudices and ideas of the minority should be consulted to a certain extent. I do not see, because there is an overwhelming majority at the back of the Premier, that our rules and Standing Orders should be ridden roughshod over. The petition will merely be delayed a week or two, and I think the suggestion an admirable one.

Mr. CHUBB said: Mr. Speaker,—This is a question to be determined upon the abstract question as to whether our rule applies or not, and not upon the question of the desirability or otherwise of establishing a university. I was not in the House when the prayer of the petition was read, but I have had the opportunity of looking at it, and I consider your ruling is right, for this reason. I put this question — Is it possible to make provision for the establishment of a university without the grant of a sum of money? If it is, then the term "provision" is sufficiently general to take it outside the rule of our Standing Orders, which says:—

"No application shall be made by a petition for any grant of public money, or for compounding any debts due by the Crown, or for the remission of duties payable by any person, unless it be recommended by the Crown."

Now, supposing that petition had asked for provision to be made by granting a piece of land, I take it that that would not be in contravention of the Standing Order. It is quite possible that provision may be made in some other way than by granting a sum of money, and it seems clear to me that the petition will bear that interpretation.

Mr. HAMILTON said: Mr. Speaker,—I think the Premier's explanation has knocked the ground from under his own feet. His statement is that the term "provision" can be considered to mean that legislation may be provided. He stated that that interpretation might be put upon it, and that is the only other interpretation that he can suggest. That is utterly absurd, for we know very well that it is not necessary for the Government to petition Parliament to enable them to bring in legislation in regard to other matters; and, moreover, this very matter is

mentioned in the Governor's Speech. I consider that the only interpretation that can be put upon the word "provision" is that it means a sum of money.

Mr. NORTON said: Mr. Speaker,—Before you put the question I wish to say a word or two. I am sorry I was not here when the previous part of the discussion took place, but I would like to point out this with regard to the petition—that it is possible to assume that a grant of money is not intended. I may mention that during the time the Synod of the Church of England was in session a motion was tabled to the effect that the Bishop should be authorised to sign the petition on behalf of the Synod. I protested against that, because I assumed—and I think I was right in assuming—that the intention in framing the petition was that a grant of money should be made. The Bishop stated his ideas as to the sort of university that would be sufficient for a commencement, and they were not very elaborate ideas; but it would have required a certain sum of money to carry them out. I was right, therefore, in assuming that a sum of money would be required, in addition to a grant of land, to carry out the object. On that ground I opposed the motion, giving as a reason for doing so that I believed when the petition was presented hon. members would assume that what the provision sought for was a grant of money. I see no reason now to depart from the opinion I then formed.

Mr. KELLETT said: Mr. Speaker,—I was not here when the petition was read and the word "provision" was objected to, but I take it that the petition simply asks that action be taken. I do not think—nor I am sure do the petitioners imagine—that immediately the petition was read a sum of money would be voted. The petitioners merely express their own opinions that some action should be taken by Act of Parliament, and I do not believe if they were asked what they meant that they would say anything else.

Mr. ANNEAR said: Mr. Speaker,—I am sorry to disagree with your ruling, but it must be well known to every hon. member that the word "provision" refers simply to the granting of a sum of money. It cannot be construed in any other way. I may say that I have brought petitions to this House, with clauses in them much milder than this, which had to be erased before the petitions could be presented. Every hon. member who exercises his own common sense can, I am sure, come to no other conclusion than that the prayer of the petitioners is that a sum of money should be voted by this House for the erection of a university in Brisbane. The subject has been before the country for many months, and people know very well what making provision for it means. You gave your ruling in good faith, Mr. Speaker, believing that what you did was correct, and I am very sorry to have to dissent from it. At the same time I should be failing in my duty, should the question go to a division, if I did not vote in accordance with what I believe is the correct and proper course to pursue.

The COLONIAL TREASURER (Hon. J. R. Dickson) said: Mr. Speaker,—I do not think the interpretation which may have been attached by the hon. member for Port Curtis to the petition of the Synod of the Church of England should be applied to petitions received from other bodies. They should not be affected by it in any way whatever. It is very undesirable to restrict the rights of petitioners to this House, so long as the petitions are respectfully worded, even though the prayer may be open to more than one interpreation. I, as the Treasurer of the colony, shall be on the alert to resist any attempt at the present time to obtain money from the public finances for any such purpose; but I infer that the word "provision," used as it appears in the petition, does not necessarily mean a prayer for a grant of money, however it may be open to that interpretation by those who wish to emphasise their objection to any action in the direction of a university. I am inclined, sir, to think that those who are objecting to your ruling desire to mark their disapproval of the establishment of a university in the colony.

HONOURABLE MEMBERS: No, no!

The COLONIAL TREASURER: They say "No, no," but that is the impression in my mind, and I am certain it will be the impression on the minds of the public outside. It is their desire to show their objection to the initiatory steps for the formation of a university——

Mr. MOREHEAD: I rise, Mr. Speaker, to a point of order. Is the Colonial Treasurer in order in imputing motives to hon. members?

The SPEAKER: The hon. member is certainly imputing motives, and is therefore out of order.

The COLONIAL TREASURER: I accept your ruling, sir, and express my regret. I did not intend to impute motives, but to show what I considered the reasons for their action in objecting to your ruling; and if I have said anything objectionable I withdraw it. My reason for rising was to protest against other petitions having necessarily imposed upon them the interpretation which the hon. member for Port Curtis contends was the view held by those who prepared the Church of England petition. Their petition, according to the representation of the hon. member for Port Curtis, was for a grant of public money; and if that petition had been presented it would clearly have been the duty of the House to refuse to receive it. But that interpretation ought not thereby to be put on petitions emanating from other public bodies. I contend, sir, that the rights of petitioners to this House ought to be jealously protected, and unless it can be clearly shown that there is a distinct violation of our rules and Standing Orders, they should have the benefit of any doubt which may arise. Therefore, sir, as a member of the House I shall be very glad to support your ruling.

Mr. McMASTER said: Mr. Speaker,—Whatever interpretation the House may put upon the petition, I can only say that the members of the municipal council of Brisbane, who sent that petition, have not the slightest intention that a money grant should be asked from this House.

Mr. MOREHEAD: Then what is it they want?

Mr. McMASTER: They have not petitioned for a money grant; they simply ask this House to make provision for a university. The petition does not say they are asking for money, and I know it for a fact that if a grant of money was required for the purpose a very large majority of the municipal council would object.

Mr. ADAMS said: Mr. Speaker,—I fail to see how the word can be interpreted in any other way than that the House is asked for a grant of money. We are asked to make provision for the erection of a university, and how can it be erected without money? Our Standing Orders ought to be strictly adhered to, for if we allow them to be violated in one instance it will give rise to no end of trouble hereafter. The Premier has distinctly stated that he will not withdraw the petition. But he might very easily withdraw it for the present, and present it again on some future day. That would satisfy both sides of the House; and

certainly the minority ought to be considered in a case of this kind as well as the majority. During my short career in the House, I have seen petitions refused for even less than is in the prayer of the petition now under consideration.

Question—That the Speaker's ruling be disagreed to—put and negatived.

Question—That the petition be received—put and passed.

The PREMIER said: Mr. Speaker,—I beg to present a petition from the council of the municipality of Cairns. The petition is to the same effect as the one just received. It is respectfully worded, and I move that it be received.

Question put and passed.

The PREMIER said: Mr. Speaker,—I beg to present a similar petition from the council of the municipality of Clermont, and move that it be received.

Mr. MOREHEAD: Surely these petitions are going to be read, and not rushed upon us in this wholesale manner! The Premier is taking up an exceptional position in asking us to receive petitions without our knowing what the contents are. Why should we receive them on the mere *ipse dixit* of the Premier? The thing has never been done before, and I, as a representative of the people, insist that we should know what we are receiving. I move that the petition be read.

The PREMIER: The hon. member opposite, as well as other hon. members, may accept my assurance that the petition is in the same form as the one we have read. If he is not content to have that assurance, I have no objection to its being read, that the accuracy of my statement may be proved.

Mr. MOREHEAD: I do not think the hon. gentleman has any right to say what he said just now. The hon. gentleman's assurance may be correct, but I do not see that we are bound to take the assurance of any hon. member. He may not have carefully read over the whole of these petitions, and that can hardly be expected, as he has a whole pile of them. He may have had them looked over by Mr. Woolcock or some other person. If the hon. gentleman will give me his assurance that he himself has gone over these petitions very carefully, and that they are all in the same form of words as the one just received, I will accept it. But I do not think we are bound to accept the assurance of his private secretary. I will take his word, but I will not go beyond it.

Question—That the petition be read—put and passed.

Petition read at length by the Clerk.

The PREMIER moved that the petition be received.

Question put and passed.

The PREMIER: Mr. Speaker,—I present a petition from the council of the municipality of Cooktown, praying that provision will be made for the immediate establishment of a university in Queensland, in the same terms as those already received; and move that it be received.

Mr. MOREHEAD said: Mr. Speaker,—If the hon. the Premier will tell us that these are copies of the circular petition sent round by Sir Charles Lilley, or the committee over which he presided, I am perfectly content to accept that statement. If he had told us at first that these were petitions which were drawn up in Brisbane, and sent round to these municipalities to be signed, or not, as the case may be, I would be content. If he had done that it would have saved a great deal of trouble. I believe that is the case.

Question put and passed.

The PREMIER then presented, seriatim, similar petitions from the councils of the following municipalities, moving on each case that "the petition be received," which was agreed to:—Dalby, Gayndah, Gladstone, Gympie, Ipswich, Maryborough, Normanton, Rockhampton, North Rockhampton, Roma, Sandgate, Toowoomba, and Warwick.

The PREMIER said: Mr. Speaker,—I have here several petitions from divisional boards similar to those already received, and if there is no objection I will present them together.

Mr. MOREHEAD said: Mr. Speaker,—I think it would be a pity to vary our action if we are to adhere to our Standing Orders in the future. That is the only objection I have—that this may be taken as a precedent—and that anyone may come in with a wheelbarrow-full of petitions and throw them on the table. I do not think they are worth the paper they are written on.

The PREMIER: Of course, if any hon. member takes exception to that being done, I must present them seriatim.

Mr. MOREHEAD: If the hon. gentleman will schedule the petitions, say where they are from, so-and-so, and that they are similar to those already received, I am willing to accept them.

The PREMIER: That is what I propose to do. I present similar petitions from the divisional boards of Antigua, Aramac, Belyando, Booroodabin, Bulimba, Bulloo, Burrum, Caboolture, Cleveland, Daintree, Douglas, Einasleigh, Glengallan, Granville, Hann, Highfields, Hinchinbrook, Indooroopilly, Murilla, Murweh, Stephens, Tinana, Tingalpa, Ulahla, Waggamba, Wallambilla, Waterford, Woollongabba, and Woongarra. Similar petitions from the following were also received:—Corporation of Synod of Diocese of Brisbane; Catholic Clergy of Vicariate Apostolic of Northern Queensland; Grand Assembly of Presbyterian Church of Queensland; Joint Synod of German and Scandinavian Lutheran Church of Queensland; Committee of Baptist Church of Queensland; Brisbane Hebrew Congregation; New Jerusalem Church of Brisbane; the judges of the Supreme Court and the members of the bar of Queensland and solicitors of the Supreme Court of the colony; the graduates of universities resident in the colony; Mr. Justice Mein, as president of the council of the National Agricultural and Industrial Association of Queensland; the trustees of the corporations of the Ipswich Grammar School, the Brisbane Grammar School, the Brisbane Girls' Grammar School, and the Warwick Grammar School; the chairmen of the committees of the Brisbane School of Arts, the South Brisbane Mechanics' Institute, the Clermont School of Arts, the Gladstone School of Arts, the Herberton School of Arts, the Mount Perry School of Arts, the Port Douglas School of Arts, the Roma School of Arts, the Southport School of Arts, and the Warwick School of Arts.

Mr. NORTON said: Mr. Speaker,—I would like to ask the hon. gentleman if he knows for certain that the chairmen of these committees signed the petition on behalf of the committees?

The PREMIER said: Mr. Speaker,—These all purport to be petitions by the committees of the different schools of arts, but they are only signed by the chairmen.

Petitions received.

Mr. BAILEY said: Mr. Speaker,—I beg to present a petition from the committee of the School of Arts and Mines at Gympie, and move that it be received.

Mr. MOREHEAD said: Mr. Speaker,—Is this a similar petition to the others? If so, why was it not presented with the rest? I should like an assurance from the Premier in regard to this matter

The PREMIER: I have not seen it.

Mr. MOREHEAD: I will move that the petition be read.

Question—That the petition be read—put and negatived.

Mr. NORTON said: Mr. Speaker,—Will the hon. member who presented the petition give the House an assurance that it is worded in the same way as the others?

Mr. BAILEY: It is worded in the same way as the others.

Question—That the petition be received—put and passed.

MOTION FOR ADJOURNMENT.

Mr. MOREHEAD said: Mr. Speaker,—I rise to move the adjournment of the House, to deal with a matter that not only affects the character and reputation of the present occupants of the Treasury Bench, but which also affects the character and reputation of those who have preceded them during the last twelve or fifteen years. The matter I intend to refer to is obtained from correspondence in this morning's *Courier* and this evening's *Observer;* and it is a matter which also affects the reputation of a gentleman in another place. The correspondence I allude to runs as follows:—

"Brisbane, 21st July, 1887.

"Hon. C. B. Dutton, Esq., Brisbane.

"DEAR SIR,—My attention has been drawn to the *Hansard* report of the proceedings in the Legislative Assembly, published this morning, in which you are reported to have said: 'I do not know that it is necessary for me to speak of the appointment to another office of Mr. Thomson. I do not know how he performs the duties of his office, and I have no doubt if the question is asked of the Minister for Works it will be very fully answered. The Minister for Works is not the sort of man to have any man forced upon him against his wishes or his judgment. What I do know is, that whether his decisions as arbitrator be good or bad, the Government were wofully and shamelessly plundered in railway arbitrations before he went into office. For years and years, to my certain knowledge, any man who did not get double the value of land resumed from him by a railway passing through it showed that he was a very great fool indeed.'

"This statement is of so sweeping a character that I would fain believe you must have been misunderstood by the reporter.

"It is hardly necessary for me to remind you that the assertions, if made, affect me most intimately, as I was predecessor in office of the present railway arbitrator.

"Kindly, therefore, acquaint me at your earliest convenience whether you are correctly reported.

"I am, dear sir, yours faithfully,

"(Signed) P. MACPHERSON."

This is the letter in reply:—

"Brisbane, 22nd July, 1887.

"The Hon. P. Macpherson, M.L.C., Brisbane.

"DEAR SIR,—In answer to your inquiry as to whether I am correctly reported in *Hansard* respecting what I said of railway valuations for resumption of land, I have only to say that I am correctly reported.

"I am yours truthfully,

"(Signed) C. B. DUTTON."

The next letter is very decided:—

"Brisbane, 23rd July, 1887.

"Hon. C. B. Dutton, Esq., Brisbane.

"DEAR SIR,—I have to acknowledge the receipt of your note of yesterday, which is just to hand, and thank you for the candour of your admission.

"Common sense tells me that the obvious, and in fact the only, implication that your words bear (so far as I am concerned) is that I, as railway arbitrator, permitted or connived at the wholesale plunder of the public funds for years.

"I answer you as straightforwardly as you (after an opportunity of correcting your words) have replied to me, by stating that your assertions are utterly untrue.

"I need hardly remind you that for twelve years I held the appointment of Railway Arbitrator without any appeal having been made from my decisions by the Railway Department.

"Putting on one side your unprovoked and malicious attack on myself, I cannot congratulate you on the state of mind which has led you deliberately to cast upon many respectable people in the colony, whose cases I have had the honour of deciding, the imputation of being plunderers of the public purse, and perjurers; for you must be perfectly well aware that evidence in these cases is taken on oath.

"I am, dear sir,

"Yours obediently,

"(Signed) P. MACPHERSON."

Now, I say, Mr. Speaker, that the charge made against Mr. Macpherson by the hon. Minister for Lands is a very serious one, and not only reflects upon Mr. Macpherson, but also reflects possibly to a lesser degree upon the occupants of office during the period for which Mr. Macpherson has held the position of Railway Arbitrator, because, if the charge is true, they must either have been neglectful of their duty or else connived at the supposed misconduct of Mr. Macpherson. We have here, sir, the assertion made by the Minister for Lands, deliberately and repeatedly, that for years and years, to his own knowledge, the colony has been wofully plundered by the late Railway Arbitrator, or at any rate with his assistance and connivance. If the hon. gentleman was aware of that fact, why did he hold his tongue for such a long period? He has been in this House since the commencement of this Parliament, and if these facts have been in his possession since he has been a member of the House why did he not, as was his duty, bring the matter before us and see that this evil—this wrong-doing—was prevented? Still more, if these statements are true, was not the hon. gentleman failing in his duty when, as a Minister of the Crown, he allowed that officer to remain in the employ of the State for some years after he became a Minister? And now, under what circumstances does he make this charge against Mr. Macpherson? He only makes the charge when an attack is made upon his own relative, and when it was pointed out that his appointment was one which should never have been made. Later on I shall be in a position to prove that, although it is very distasteful to me to have to do so. But it is a case that I intend to prove. With regard to the character of Mr. Macpherson as Railway Arbitrator, I will appeal to the Premier, who has known Mr. Macpherson for many years, as to whether he believes for one moment that Mr. Macpherson, either by neglect or connivance, acted improperly in his position as Railway Arbitrator. I feel strongly in this matter, I admit, because Mr. Macpherson is a great personal friend of my own, and his honour is as dear to me as my own; and I appeal to the gentlemen of this House, and to any resident of Brisbane who has known him, to say whether they know a more honourable man in this colony. I say there is not a more honourable man in the colony, and I say it without fear of contradiction. I have not only known him personally, but as a lawyer in large business transactions, and all I can say is that Mr. Macpherson has, to my knowledge, an almost Quixotic sense of honour, and all who know him will say that of him. I think it is a very hard thing indeed if a Minister of the Crown is to be allowed under the shelter of privilege—the last resort of a party politician—to take away the character and injure the reputation and prospects of any man, more especially when the person referred to is a professional man. We know very well that a solicitor is the most trusted, probably, of all the

people we come in contact with in business. He is intrusted with private business, family matters, and so forth; and if these charges brought against Mr. Macpherson could be substantiated they would ruin him professionally. The hon. member for Fortitude Valley (Mr. McMaster) knows as well as I do the position Mr. Macpherson occupies in the profession in Brisbane. He is, I believe, the solicitor to the corporation, and I am right, I think, in saying that he is held in very high esteem by the corporation. I ask this House again whether such charges should be wantonly made by a Minister of the Crown under shelter of privilege. It must be remembered that this is a very different thing from a private member, probably in the heat of passion, making a wrongful charge; and if he did make such a charge I hope and believe he would withdraw it. But the Minister for Lands has made this charge deliberately. When he had an opportunity of saying that he had in the heat of debate, and under exasperation, made a statement against Mr. Macpherson which was an erroneous one, and regretted he had made it, why did he not do so? Does he do so? He does not. We find Mr. Macpherson acting most gently and courteously. He writes to the Minister for Lands, giving him an opportunity of correcting the mistake which he (Mr. Macpherson) assumed he had fallen into, and the Minister for Lands replies by saying:—

"In answer to your inquiry as to whether I am correctly reported in *Hansard* respecting what I said of railway valuations for resumption of land, I have only to say that I am correctly reported.

"I am,

"Yours truthfully,

"C. B. DUTTON."

Why the word "truthfully" should be used I do not know, as it is a most unusual way of concluding a letter, but it may, perhaps, have been used in a Pickwickian sense. I do trust, for the honour and reputation of the Ministry and for the reputation of their predecessors, that the Premier will disclaim any such charge against Mr. Macpherson as is contained in the words used by the Minister for Lands. They can contain only one meaning that cannot be got rid of. The Minister for Lands himself does not in any way attempt to explain that away. This is an attempt to fix a charge of a very grievous nature on one of our most honourable citizens. I do not think this House will allow such a statement to go unchallenged, or such an attack to be made by a Minister uncommented upon. I do not know that I need say anything else. I feel very strongly upon this question, and I daresay I have spoken strongly; if not, I intended to do so. I shall conclude with the usual motion for the adjournment of the House.

The MINISTER FOR LANDS (Hon. C. B. Dutton) said: Mr. Speaker,—I do not know whether what I said on the occasion of the debate referred to is of such a nature that it can be properly interpreted as reflecting upon the character of Mr. Macpherson. If it does bear that interpretation I can only say honestly and truly that I never intended it to bear that interpretation. I spoke of the system, not of the man. I may not have been as distinct and explicit, or explained the matter as clearly, as could be desired, but it was the system I attacked and not the man. I was scarcely conscious at the time of the fact of Mr. Macpherson having been arbitrator, and it was only when he wrote to me that it occurred to my mind. I maintain that the system was a bad one. He is not entirely responsible for the evil results that came from that system. We know perfectly well—at least, I am sure most members of this House do—that he, in the performance of his duty as railway arbitrator, went into the neighbourhood where the resumption was to be made, and simply took the evidence of people interested in the locality where the question was to be tried and gave his decision upon the evidence received there, without making himself personally acquainted with the correctness of the evidence placed before him in those matters. I do not think that anyone can come to any conclusion but one, and that is that the interests of the State, in most instances, were sacrificed to the interests of the individual. Nor does this apply entirely to the case of arbitrations. In almost any matter, wherever the Government has been on the one side and the individual on the other, the State has always been slated by the individual, supported by those whose interests might perhaps have moved with his own in that locality. The statement, I say, does not apply only to railway arbitration, but also to trials by juries in the courts of the colony. I could cite numberless instances, in both cases, where that conclusion must be distinct and palpable to every man. When Mr. Macpherson wrote to me the other day I was in a great hurry at the time I received his letter, and I could do no more than say I was correctly reported. Perhaps if I had had time—if I had had a few moments to spare—I would have explained what I really meant, and I was ready to do so afterwards. At the time, however, I had only the opportunity of answering him shortly, and telling him that, so far as the *Hansard* report went, I was correctly reported. I can only repeat now what I said in the first instance, that I did not intend then, nor do I intend now, to impute any improper motives to Mr. Macpherson in the discharge of his duties as Railway Arbitrator. He was placed in such a position as Railway Arbitrator that it was impossible for him to do what ought to have been his duty to the State; that is, he should have secured the State against all possibility of interested evidence being given, by which individuals were enabled to obtain much larger compensation for land that had been taken from them than they were entitled to. I maintain that that is not possible under the present system. Some hon. members, I daresay, feel that the present system goes too much the other way, but I do not think there can be much ground for that belief. A slight error in judgment might be made, but, on the whole, a much nearer approach to an equitable allowance can be arrived at in all cases now dealt with.

Mr. LUMLEY HILL said: Mr. Speaker,—I think we shall have to publish a new dictionary or introduce a new language. The English language, as I understand it, certainly does not appear to be one that is at all acceptable in this House with the present position of parties. We have had one example already this afternoon of that, and now we are having another. The only interpretation I could put upon the speech of the Minister for Lands was that decidedly the last Railway Arbitrator, deliberately and with his eyes open, allowed the Government and the people of this country to be robbed. That is the only construction that can be put upon those words. The hon. gentleman was talking about the system being altered, but I do not see that the system has been altered at all, except in so far as one man has been put out of a billet and another man put in who does not give the people anything at all for their land. That is about the system at present adopted. I do not see how you can arrive at the value of land except by going into the district and taking upon oath the evidence of people holding contiguous land, and from the accounts of the actual sales made in the locality. I do not see how any valuation can be made without taking that evidence. I have had an opportunity of going before the existing railway arbitrator and giving evidence in a matter of

land where I was not directly, and only in the most indirect way, interested; and I really could not see that the system was one whit better than the one previously followed. I objected myself to the late railway arbitrator holding his appointment, because he held another position which I considered disqualified him from occupying the office of arbitrator. But I never imputed any dishonest or dishonourable motives or actions to him. Never; I should have been the last man in this House to do that. Of course, if my duty pointed out that that should be done, I should not hesitate for one moment to do it. As a private member of the House, I consider it my duty, if I see any instance where the public purse is plundered, to point it out and get an explanation about it, and have the whole thing square and above-board. I was not here at the time the Minister for Lands made his speech, but I read his remarks in *Hansard*, and could only put one interpretation upon them—namely, that the matter of railway arbitration was a great deal worse than I had thought it was. I do not believe in it, nor do I see that any alteration has been made in the system hitherto adopted except that perhaps we have gone from one extreme to the other, and that now they do not believe anything or anybody. It would seem as if land was of no value at all if it is freehold. Probably a policy of confiscation has been adopted. That is about all the difference there may be in the system; it may be better or may be worse, but that is, of course, a matter for which the Ministry are responsible. I suppose the people will have to submit to it, at any rate for the present, as in all likelihood there will be no alteration or change. The Government are all-powerful, and they can confiscate, of course. I am perfectly willing to admit that even a responsible Government is capable of confiscating anybody's property——

Mr. MOREHEAD: Especially a political opponent's.

The PREMIER: Where is your land?

Mr. LUMLEY HILL: I have some land near here, and I have some through which a railway passes. I am not ashamed of holding land. I really would like to state, though I am almost afraid to do so in the present state of public feeling, that I do own a little land—a few acres, certainly under a hundred—and I am not ashamed of it. I do not think that I am a worse colonist because I hold a little land. It may be contrary to the Georgonian or Duttonian theories, and I may be considered a malefactor for having acquired a few acres of land, but I repeat that I am not ashamed of it. And if anybody was going to take my land from me I should expect to be paid for it, and should be very much disappointed if I was not paid its value. But I have strayed a little from the subject. I think the character of any public officer is an important matter——

Mr. MOREHEAD: Or of a private citizen.

Mr. LUMLEY HILL: Or of a private citizen, especially a professional man; and I do think that the utterances that were made with respect to this matter certainly require from the Minister for Lands a full and ample apology, more especially after reading the letters, which I had not seen before.

The PREMIER said: Mr. Speaker,—The hon. gentleman opposite appealed to a certain extent to me in this matter. I was not in the House when my hon. colleague the Minister for Lands made that part of his speech to which exception has been taken, and I was not aware that he made that reference to the Hon. Mr. Macpherson until I saw it in the *Courier* this morning. I was very glad to hear my hon. colleague say—and I am sure we all know that that was what he meant—that he did not intend to impute anything in the nature of personal misconduct or dishonesty to the Hon. Mr. Macpherson. I have known that gentleman for a great many years, and I am quite sure that the worst accusation that can be made against him is that he may have committed what we are all liable to, an error of judgment. I have very great pleasure in saying so, and I am sure that my hon. colleague the Minister for Lands is of the same opinion.

Mr. CHUBB said: Mr. Speaker,—I was very glad to hear the Minister for Lands state that he did not intend to make any imputation against the Hon. Mr. Macpherson personally, because I think anyone who has read the words used by the hon. gentleman could not come to any other conclusion than that there was a charge made against Mr. Macpherson. The hon. gentleman said in his speech that—

"The Government were wofully and shamelessly plundered in railway arbitrations before he went into office. For years and years, to my certain knowledge, any man who did not get double the value of land resumed from him by a railway passing through it showed that he was a very great fool indeed."

The hon. gentleman has told us to-day that he did not mean to impute anything against Mr. Macpherson. I can go further and say that the statement of fact is not correct. For many years I have had opportunities of coming personally into contact with Mr. Macpherson in his position as Railway Arbitrator, and I am quite satisfied that no one can point to a single case in which any claimant for compensation ever got anything like the amount he claimed. I was myself a claimant in one case, and got but a very small sum, a sum which I did not think at all adequate to meet my claim. I am quite satisfied that the Government did not suffer in that instance, and there are many other similar cases of which I have personal knowledge. I think that the hon. gentleman, therefore, has been misinformed. I believe, however, that there is a different system now. The present system seems to be to value the land at nothing. At one time—during Mr. Macpherson's tenure of office—the practice was to go by law to decide upon claims for compensation in accordance with the provisions of the Act. The Railway Amendment Act of 1872 requires the arbitrator to—

"Proceed to hear and determine the matters in question in the presence of such of the parties as shall attend by themselves, or their counsel or attorney, and in the absence of such of them, if any, as shall not attend, and shall for that purpose examine the parties, or any of them, or their witnesses upon oath, and shall have power to adjourn the hearing of the matter from time to time as he may consider just or necessary. Provided that the arbitrator may call, for his own guidance, such evidence of professional persons or others as he may think fit."

An HONOURABLE MEMBER: Read the previous part.

Mr. CHUBB: The preceding clause states that—

"The railway arbitrator may by any such summons require the parties to the question in dispute to attend before him either on or near to the land or tenement which is the subject of the dispute, or in respect whereof the dispute or question has arisen, or at his office."

The Minister for Lands has told us, as far as I could understand from the language he used, that it was not the practice in Mr. Macpherson's time for the arbitrator to go over the land. That, however, is quite erroneous. I know of my own knowledge that Mr. Macpherson did not determine a claim without going on the land. In every case he inspected the property. He often held his arbitration court in Brisbane, but before giving his decision he visited the land.

Under the system as at present adopted, the railway arbitrator goes on the land which is the subject of dispute, and inspects it in the same way as Mr. Macpherson did. I certainly am in a position to say—it is unnecessary to repeat that Mr. Macpherson is a gentleman of high character and respectability, but I can say from personal knowledge that Mr. Macpherson was never a party, directly or indirectly, innocently or wrongfully, to defrauding the Government in respect to railway arbitration cases. I am quite satisfied that if the records of the office relating to the twelve years he was acting as Railway Arbitrator were referred to—if the claims, the evidence, and the awards were examined—it would be seen that Mr. Macpherson did fair impartial justice in every case and that the Government were not defrauded in a single instance.

Mr. FRASER said: Mr. Speaker,—Although this is a somewhat unpleasant matter, I am pleased that it has been brought before the House this afternoon. As one who has had a good deal to do with Mr. Macpherson, I can bear out all that has been said by the hon. member for Bowen, for a more careful and particular officer there could not be. I may also say that in cases in which I have been concerned he never gave his decision without personally visiting the place himself. Of course, there is no doubt that the words of the Minister for Lands conveyed the idea that a reflection was intended; and I am pleased to find that the hon. gentleman did not mean anything of the kind. What the system is now I am not personally aware, but I can heartily bear my testimony to all that has been said in favour of Mr. Macpherson, both in his capacity as Railway Arbitrator and as an honourable professional gentleman.

The HON. J. M. MACROSSAN said: Mr. Speaker,—I believe the adjournment of the House has been moved to debate a statement made by the Minister for Lands, which has been taken to impute corruption to the late Railway Arbitrator, Mr. Macpherson. I think no hon. member of this House has had a larger experience of Mr. Macpherson as Railway Arbitrator than I have. I occupied the Works Office over four years, during the whole of which time Mr. Macpherson was arbitrator. I frequently asked the Commissioner of Railways why such decisions had been arrived at and how they were arrived at, and he was always able to make a thorough explanation and exculpate Mr. Macpherson from any charge of apparent overcharge for land for railway purposes. Mr. Macpherson, so far as I could ascertain from the Commissioner or from himself, decided his cases on the evidence brought before him—evidence taken on oath—and wherever the Government were overcharged in the matter of land it was the fault of those who had charge of the Government Department in not placing their cases properly before the arbitrator. So that Mr. Macpherson was blameless; he was in the position of a judge, and obliged to decide cases on the evidence brought before him. I believe Mr. Macpherson is as thoroughly conscientious as any Government servant ever was. Though I had occasion sometimes to find fault with his decisions, I never had to find fault with the arbitrator; and I think the Minister for Lands certainly did not mean that Mr. Macpherson was corrupt or unfair to the Government; at least, I hope he did not mean it.

Mr. MOREHEAD: He has said he did not.

The HON. J. M. MACROSSAN: I am glad he has said so, because I think Mr. Macpherson deserves a complete exculpation from any apparent injustice or unfairness towards the Government as Railway Arbitrator.

Mr. MOREHEAD, in reply, said: I would say, Mr. Speaker, that the whole of this debate might have been prevented had the Minister for Lands been man enough, in his reply to Mr. Macpherson that he had not been misreported, to say that he did not intend to convey what Mr. Macpherson thought he intended to convey, and what every member of this House also thought he intended to convey. However, we have at this late hour got from the Minister for Lands—most reluctantly, I must say—an expression almost approaching regret—approaching it as nearly as the Minister for Lands could go. We cannot expect figs from thistles, or grapes from thorns, I suppose; but I am satisfied with what fell from the Premier. I was perfectly certain that, when the matter was properly represented to him, his intimate knowledge of Mr. Macpherson, not only officially, but personally, would make him glad of the opportunity of putting Mr. Macpherson right in the eyes of the public. If I had not intervened in this matter I consider that a great possible injury might have been done to a most estimable gentleman by the reckless language used by the Minister for Lands. With permission of the House, Mr. Speaker, I will withdraw my motion.

Motion, by leave, withdrawn.

VALUATION BILL.

THIRD READING.

The PREMIER said: Mr. Speaker,—I move that the Bill be now read a third time.

Mr. McMASTER said: Mr. Speaker,—I rise to ask that this Order of the Day be discharged from the paper, with the view of having the Bill recommitted. Last night I endeavoured to obtain the introduction of an amendment of the rating clause. It came suddenly on the Committee, and they were probably not acquainted with the whole circumstances, or the effect the clause as it stood would have on some local authorities. I pointed out that many local authorities had properties leased for a term of years on the condition that rates would be paid by the lessees as well as rent; but many of them have found that the law does not compel them to pay rates, and the local authority is unable to insist on the rates being paid. I am better acquainted with the circumstances connected with leasing these properties in the municipality of Brisbane than any other place, and what the effect on that municipality will be if the Bill becomes law in its present form. I made inquiries this morning, and found that its effect on the revenue of the municipality will be an annual loss of £846, not including endowments. That will be the actual loss of revenue on account of rates now due or liable to be collected; therefore the loss will be at least £900 or £1,000 a year, because there are vacant lands in South Brisbane not yet leased. Negotiations are being carried on for the lease of some of them, and when buildings are erected on them, they will also be exempt from the payment of rates if we pass the Bill in its present form. I am sure that if hon. members will think over the matter a little they will agree with me that it is not desirable to diminish the revenue of any local authority if they can possibly help it, and I hope the Chief Secretary will not object to the Bill being recommitted for the purpose of reconsidering clause 5. I think that perhaps some hon. members who voted against it last night will reconsider the question, seeing that I have ascertained the exact amount that the revenue of one local authority will suffer thereby. I therefore move that the order for the third reading of the Bill be discharged, with the view of recommitting the Bill to consider the 5th clause.

The PREMIER: Mr. Speaker,—I believe there is a good deal to be said on the subject, but it would be more convenient to say it in committee. I have no objection to withdraw the motion for the third reading, to allow the hon. member an opportunity of submitting his views in committee. Will the hon. member withdraw his amendment?

Mr. McMASTER: I beg to withdraw my amendment, Mr. Speaker.

Amendment, by leave, withdrawn.

The PREMIER: I withdraw the motion for the third reading.

Motion, by leave, withdrawn.

The PREMIER: I move that the Order of the Day be discharged from the paper.

Question put and passed.

On the motion of the PREMIER, the Speaker left the chair, and the House resolved itself into Committee of the Whole to reconsider clauses 5 and 6.

On clause 5, as follows:—

"All land is rateable for the purposes of this Act, with the following exceptions only, that is to say:—

(1) Crown land which is unoccupied or is used for public purposes;

(2) Land in the occupation of the Crown, or of any person or corporation, which is used for public purposes;

(3) Land vested in, or in the occupation of, or held in trust for, the local authority;

(4) Commons;

(5) Land used exclusively for public worship or for public worship and educational purposes, or for mechanics' institutes, schools of arts, public schools, libraries, or cemeteries; and

(6) Land used exclusively for hospitals, lunatic asylums, benevolent asylums, or orphanages."

Mr. McMASTER moved the insertion, after the word "authority," in the 3rd subsection, of the words, "and which is used for public purposes."

Mr. FOOTE said he would like to know if it was competent for the House to withdraw the third reading, and then go into committee to consider an amendment which had been rejected on the previous night. It was a sort of thing he had never seen since he had been in the House. If it were allowed to go on they would never know when they had done with a Bill. He had voted for the amendment last night, but he was strongly opposed to such shilly-shallying—rejecting a motion one day and bringing it up the next—and he would now vote against it.

The PREMIER said that if a mistake were made yesterday there was no reason why it should not be rectified to-day. He was not at all certain that they had made a mistake, but there could be no objection to having all the new light thrown upon the subject that could be thrown upon it.

Mr. MOREHEAD said he did not think the hon. the Premier expected that any new light would be thrown on the subject. He was perfectly certain the hon. gentleman had fully considered the subject from end to end, and had fully considered it last night, and that he would vote to-night as he did last night. He agreed with the hon. member for Bundanba that this action, though it was quite within the rules of the House, looked very much like a trick. If that were to become the practice, it would be quite possible for a member to take advantage of a thin House, having got his own supporters together, and push through an amendment which a majority of the House had refused to accept the previous night. He was perfectly certain that the hon. the Premier was not going to change his mind, and he was certain that hon. members on the Opposition side were not going to reverse the votes they gave last night. There were not likely to be any fresh arguments brought forward to induce the Government to change their minds; he was sure that the matter had been very carefully considered by the Premier, and that he would keep to the course he had decided on.

Mr. FOOTE said he was quite sure the hon. member for Fortitude Valley would have carried his amendment last night had not the Premier put his foot on it. There was a strong feeling in favour of the hon. member's motion, and he had a good case; but when the Premier offered his views there was a certain following that went over to his side, whether he was right or wrong. However good the case might be, if the Premier put his foot down there was no case.

Mr. MOREHEAD: Not that Foote.

Mr. FOOTE said he was surprised to see the Premier so weak that afternoon, and so disposed to allow the matter to be brought up again, after giving his judgment in such a pronounced way yesterday afternoon. He supposed that since yesterday some little arrangement had been come to, and so long as Brisbane got what it wanted it did not matter.

The PREMIER said the hon. member was under a strange misapprehension. The hon. member for Fortitude Valley came to him in the House and asked if he would allow the Bill to be recommitted. He said he would if anything new could be said upon the subject. If any other hon. member had made a similar request he would have had the same answer, unless the matter had been thoroughly thrashed out and finally decided. He had had no very decided opinion last night, as it appeared to him a matter of very little consequence whether a municipal council got its rent in the shape of rates or in increased rent. He had not the least idea how the division would go last night, and he should not have been surprised if it had gone the other way, and he had pointed out that if the amendment were accepted it would necessitate leaving out the clause altogether from this Bill.

Mr. McMASTER said it was just possible that the Chief Secretary was not aware that the municipal council of Brisbane had leased many of their properties for a term of years, on the understanding that rents and rates would be paid.

Mr. FOOTE: We all know that.

Mr. McMASTER said they were not in a position to collect the rates, because that Bill, when it became law, and the law as it had been, would not enable the corporation to enforce the payment of the rates justly due. The municipal council could not raise the rents for many years, and they could not collect rates, and therefore they were losers to the extent of £846 at the present time. Now, those rates did not carry endowment. They were the health rate, watering rate, and lighting rate, and the citizens of Brisbane would have to make up the £846. That was a great hardship upon the local authority, and it was just possible that hon. members did not know last night what the loss would really be. At present it was the sum mentioned; but there were other properties that the council were about to lease, and they also would be exempt from the payment of rates. It was all very well to say that an increased rent could be charged, but that was not so easily done, and the hardship came in when the other citizens of Brisbane had to make up the difference.

Mr. DONALDSON said there was nothing new in the arguments of the hon. member. With the exception of the figures quoted he gave the same argument three times over last night, and he was perfectly satisfied that every member on the Opposition side of the House, as well as the Premier, perfectly understood the question and that every member who voted thoroughly understood the question. He opposed the amendment last night because, if the city council chose to make a bad bargain, they should not ask Parliament to rectify it. There were two sides to the question. If it were possible for the city council to levy rates now, the tenants would say it was very unfair. He probably thought they were giving a full rental, and that it would be a hardship to increase it. With regard to any future properties the council had to let, they would provide for the rates by getting a sufficient rental to cover rates. How many landlords were there who let their properties to their tenants free of rates and taxes because they paid them themselves? They paid the rates, but they put them on the tenants in the shape of increased rental, and that was the position of the city council. With regard to allowing a matter which had been definitely decided to be brought up again on the following day, he thought it was a very dangerous precedent, unless very good reasons were shown for reconsideration; and he did not think that any matter which had had the mature consideration of hon. members should be reopened. It was quite possible that the question, having been decided in a full House by a close majority, might be reopened and decided in a thin House, and the previous verdict of members upset. That was a most dangerous position to take up, and he entered his protest against it. He was always prepared to change his opinion if a good excuse could be shown for it, but in the present case no adequate reasons had been given. Neither the member for Fortitude Valley nor the Premier had given any additional reasons, and unless very good reasons were shown they should be very careful in altering the decision already arrived at.

Mr. KATES said there was another point to be considered. They must take care that they did no injustice to the tenants. When they made the agreements they knew they were exempt from rates——

Mr. McMASTER: No.

Mr. KATES said they must take care that they were not forcing the tenants to pay rates which, when they made the agreements, they understood that they had not to pay.

Mr. ANNEAR said the alteration would not interfere in any way with the next lot of tenants, because under a fresh agreement it would be provided for. He was sorry he was not present last night, but he did think the municipal councils throughout the colony that owned wharf properties were deeply indebted to the hon. member for Fortitude Valley for bringing up the question again that day. He thought it would be a great pity to allow the Bill to pass in its present shape. What was the position of the various municipal councils at the present time? It was known that last session the endowment on the health rate was withdrawn, and wherever endowments could be withdrawn they had been withdrawn. In the town of Maryborough there were three or four wharves owned by the corporation; every private wharf was rateable, and if persons who applied to rent wharves knew that they were rateable they would give a rent accordingly. He hoped the Committee would accept the amendment of the hon. member.

Mr. McMASTER said the wharves had been let on the understanding that the rates would be paid, and, further, all the corporation tenants paid rates up to the 30th June last, with the exception of Howard Smith and Sons. If the Bill became law as it stood, the other tenants of the corporation would not pay rates. If he was a corporation tenant, and knew that an Act of Parliament exempted him from the payment of rates, he would not pay them. The wharves and other premises were leased with the understanding that rates would be payable on them. But Howard Smith and Sons first refused, and then Campbell and Sons, and Hart; and if the Bill became law in the shape in which it passed last night, no rates would be recoverable from them, and an injustice would be done to the local authority to the extent of £866.

The PREMIER said the Bill did not make any change in the law in that respect. The principle they had adopted last year was that the person ultimately liable for rates was the owner; and where the corporation was the owner, there was no good reason why a different rule should be applied. It was quite easy for the corporation, if they wished, to make their leases in such a form that the rent would vary to the extent that the rates might vary. They might state in the lease that in addition to the rent the tenants would have to pay a sum equivalent to the amount of rates. He had not been sorry to hear the question further discussed, because he felt even more satisfied than before that the view he took of it was the right one.

Question—That the words proposed to be inserted be so inserted—put and negatived; and clause, as printed, passed.

On clause 6, as follows:—

"Every local authority shall from time to time make a valuation of the annual value of all rateable land within the district, and all rates made by the local authority shall be made upon such valuation, and every valuation of any land shall remain in force until a fresh valuation thereof has been made.

"Every valuation shall specify the particulars set forth in the second schedule to this Act."

The PREMIER said that some confusion had been felt by some local authorities on that matter. They thought that whenever they made any new valuation of any property they were bound at the same time to value all the properties. The clause was, however, he thought, quite clear. But to remove any possible source of confusion he would move that the clause be amended by the omission of the word "all," in the phrase "annual value of all rateable land," with the view of inserting the word "the."

Mr. S. W. BROOKS said he thought the proposed alteration would meet the objection that had been raised. A chairman of a divisional board had that day interviewed him on the subject. He (Mr. Brooks) tried to show him that the clause as it stood did not involve what he thought it involved, but failed, and then promised to do something to remove the doubt. That something had been done by the amendment proposed by the Premier.

Mr. MOREHEAD said that he also had had an interview that morning with the chairman of a divisional board, but he (Mr. Morehead) informed him that in coming to him he had come to the wrong shop, and that he had better apply, if he wanted the Bill recommitted, to some of those who supported the Government. He was glad to find that that chairman had acted upon his recommendation and gone to the hon. member for Fortitude Valley.

The PREMIER said he could assure the hon. gentleman that the Government were only too

glad to recommit a Bill when any useful suggestion was made for amending it, no matter from whom the suggestion might come. But it must be a useful suggestion.

Mr. MOREHEAD: Then I make the useful suggestion that the hon. gentleman resign office at once.

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

On the motion of the PREMIER, the CHAIRMAN left the chair, and reported the Bill to the House with further amendments.

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

WATER LAW BILL.

SECOND READING.

The PREMIER said: Mr. Speaker,—Last year a Bill was read a second time to declare and define the rights to natural water, and also providing for the administration of water rights by local authorities constituted for the purpose. That Bill received some consideration at the second reading, particularly with reference to the important question as to what the definition of the law in this colony should be in regard to natural water; but the other matters relating to the administration of it were not very fully considered. It was certainly one of those questions which should be considered for more than one session before being finally dealt with, and since last session the Government have come to the conclusion that it would be better to separate the general question of what should be the law as to water rights in this colony from the matters of detail which were then connected with it; and the Bill brought in now deals only with the subject of what should be, in fact, a code of water law. I pointed out last year, in moving the second reading of the Bill, that the common law of England, which is supposed to apply, and I suppose does apply, to Queensland, is totally inapplicable to this country. If we had streams such as they have in England, and the country here was settled as it is there, I daresay the rules of common law would be applicable here, as they are supposed to be rules of common sense. But we know very well that the rules of common law are quite inapplicable to the interior of this country so far as they relate to the preservation and use of water. Not that up to the present time we have had anything like actual fighting or resort to violence to protect dams or to destroy them, but such things have been known in the neighbouring colonies. I do not know what the decisions of the courts were in those cases, but those of us who are familiar with the interior of this colony know that the rules of common law about not intercepting the natural flow of water by dams and all that sort of thing are entirely inapplicable here. I daresay that if the courts felt themselves free to do as the original courts in England did—that is, to lay down rules of common sense—and if they were sufficiently familiar with the circumstances of the country, the common law as declared by them would be quite as good in Queensland as it is in England; but, as they hold themselves to be bound by the highest rules, as it is no longer the province of the courts to declare rules of convenience irrespective of precedent, it becomes the province of the Legislature now to define what are the rules of common sense governing the right to natural water in this colony. Reference was made last year to the laws of the American States and some other States, and I have attempted to deal with the ideas suggested in connection with the law in those States. I had the advantage of being in the United States for a short time since then, but I was not able to get much information as to any special laws. Indeed, so far as I could ascertain, the State of Colorado is the only one that has to any serious extent altered the rules of common law with respect to water. Most of the American States have only the English common law in regard to water rights. Last year the hon. member for Townsville, Mr. Macrossan, pointed out that there was no sufficient definition in the Bill of the public right to all natural water. I did not quite understand the point that he was aiming at at the time, and did not see my way to meet the objection he urged, or to supply the omission he complained of; but with the additional information I have since obtained, I can now see fully the force of his objection—that there should be a distinct declaration that all natural water is the property of the State, and to be used by the public — and hon. members who have compared this Bill with the Water Bill of last year will see that considerable change is made in that direction. I found that in the State of Colorado, where a great deal of use is made of water—probably as much as in any of the other States of the Union—some of these matters are dealt with in the Constitution of the State itself—are part of the foundation of the State; and two in particular—one defining and declaring that all natural water not appropriated is the property of the State, and another declaring the right to carry water over alienated land without paying compensation for anything more than the actual damage done. I am disposed to attach very great weight to the opinions of those who framed the Constitution of that State. Hon. members, of course, know that the effect of inserting a provision in the Constitution is that it cannot be altered without going through the somewhat complicated process required to alter a State Constitution. It requires an expression of the opinion of the people in a much more serious and deliberate manner than could be obtained by an ordinary Act of Parliament. In the Constitution of the State of Colorado, article 16, which is the one dealing with mining and irrigation, there are three sections which I shall read. Section 5 provides:—

"The water of every natural stream not heretofore appropriated, within the State of Colorado, is hereby declared to be the property of the public, and the same is dedicated to the use of the people of the State, subject to appropriation as hereinafter provided."

Section 6 says:—

"The right to divert unappropriated waters of any natural stream to beneficial uses shall never be denied. Priority of appropriation shall give the better right as between those using the water for the same purpose; but when the waters of any natural stream are not sufficient for the service of all those desiring the use of the same, those using the water for domestic purposes shall have the preference over those claiming for any other purpose, and those using the water for agricultural purposes shall have preference over those using the same for manufacturing purposes."

Section 7:—

"All persons and corporations shall have the right of way across public, private, and corporate lands for the construction of ditches, canals, and flumes for the purpose of conveying water for domestic purposes, for the irrigation of agricultural lands, and for mining and manufacturing purposes, and for drainage, upon payment of just compensation."

That is part of the Constitution of the State, and shows the great value the early settlers in that part of the United States attributed to water, upon which they have to depend for almost everything. I have not scrupled to make use of the ideas contained in those sections in this Bill; and hon. members will find that the 4th, 5th, 6th, and 7th sections of it are, in fact, founded upon the principles as declared in the laws of that State.

So far as my information goes—information which I have been able to obtain from various sources—that is considered to be probably the most satisfactory law, so far as it goes, to be found in the United States. We propose to declare in the 4th section of the Bill that—

"The water in every natural watercourse, lake, or lagoon is the property of the Crown and not of any private person, and is dedicated to the use of the public, subject to such conditions as may be prescribed by Parliament from time to time with respect to such use."

That may be considered to be rather a sweeping declaration.

An HONOURABLE MEMBER: Rather!

The PREMIER: It is rather sweeping, but I believe it is the right one. I believe that all natural water should be considered the property of the public and dedicated to their use just as much as air; and I hope sincerely that that principle may be affirmed in this Bill. And I am sure of this: that if a principle like that is affirmed in this form and becomes part of our statute law, it will be found quite as hard to alter as if it formed part of the Constitution of the country. Once let it be embodied in our Statute-book, and he would be a very bold man, with a very strong party at his back, who would be able to alter it; and I hope that we are not so far advanced from our foundation that it is too late to put a declaration like that upon our Statute-book. Having declared that right, of course it is then necessary to proceed to define by some means how the right of the public to use it is to be exercised. There must be some power, some mode of regulating that which belongs to the public. The first question that arises is, how are the public to get to it? and I think we must at once put in this limitation: that the right of the public to use it must be dependent upon their right to access to the place where the water is. Whether in a stream, or lake, or lagoon, any person entitled to get to the water has an equal right to use it, subject to such limitations as may be imposed to prevent monopoly. The next step, after declaring that natural water belongs to the public, is to say under what circumstances the public may exercise those rights, and we propose to do that by saying that any person who is lawfully entitled to access to water may take it. We know in this colony that water is limited in quantity, and in determining the rights of priority, as they must be determined where there is competition, we propose to say, first, that it may be taken for domestic purposes; that is, for the support of man—that has precedence; after that for watering cattle, and afterwards for any other purposes. This is provided for by sections 5 and 6 of this Bill. The 5th section provides:—

"Any person who is lawfully entitled to access to a natural watercourse, lake, or lagoon may take therefrom so much water as he requires for domestic purposes.

"Any person who is lawfully entitled to access with his cattle to a natural watercourse, lake, or lagoon may water his cattle with the water thereof, and may for that purpose take and consume so much water as is necessary.

"Provided, nevertheless, that the Crown may impose such restrictions and conditions upon the exercise of any of the rights declared by this section as the Crown may from time to time deem necessary or expedient for the purpose of securing equal enjoyment of the use and benefit of the water to the public generally."

Then, I think that the circumstances of this colony require a further declaration not necessary where water is more plentiful than it is here.

"Water may not be taken from a natural watercourse, lake, or lagoon for any other purposes than those hereinbefore mentioned except with the sanction of the Crown, and under and subject to such conditions as the Crown may impose, but may with such sanction and under and subject to such conditions be taken for any other purpose."

I should say that in this Bill I have thought it convenient to use the term "Crown" as representing the public. The rights of the Crown and the manner in which they will be exercised will be determined by Acts of Parliament. It is provided in a later section of the Bill, section 20, that the powers of the Crown in respect to water shall be exercised by the water authority; so that the use of the word "Crown" does not mean the power exercised by the Government for the time being. The Bill is framed for the purpose of declaring precisely the rights as between the public and individuals, and it is convenient to use the term "Crown" as distinguishing the rights of the public from the rights of individuals. The mode in which the rights of the public will be exercised are left to be determined otherwise; this Bill is not framed to deal with any details of that kind. The 6th section provides for priority of right when water is insufficient. It is to be used first for domestic purposes, and next after that for watering cattle. The 7th section deals with a very important matter, which, as I said before, was suggested by the constitution of the State of Colorado—the right to take water across alienated land. It does not do anybody any harm to carry water across his land, or if it does the harm is infinitesimal. The construction of a flume over a man's land will not do any harm; and if it does any harm the owner ought to be paid the amount of injury done to him. But he ought not to be allowed to charge at his discretion any amount he pleases for the right-of-way over his land. These sections deal with the question in its broadest aspects, and are new in the Bill of this year. But we must deal also with the question particularly proposed to be dealt with by the Bill of last year—that is, the different kinds of watercourses in Queensland. After the best consideration the Government have been able to give the matter in the meantime, we still think that there are really in this country two different kinds of watercourses. There are watercourses, the right to the soil of which and the water in which ought to be set apart for the benefit of the whole community, and others as to which the owners and occupiers of the land fronting them should have special rights. In the western districts the land in many parts can only be utilised by allowing persons who own the land on the frontage of small watercourses to store the water. We know that is absolutely essential for the beneficial use of the land. A different principle is proposed to be applied to those cases from that applied to running streams and the larger watercourses, where to allow the exercise of private rights would be injurious to the general welfare. We propose, therefore, to adhere to the definition suggested before, of main and minor watercourses. A good deal was said on a previous occasion about the definitions, and the definitions contained in this Bill are substantially the same as those contained in the Bill of last year. I do not for a moment profess to maintain that they are perfect, and the figures mentioned are, of course, arbitrary, and are printed in italics to indicate that that is so.

Mr. NORTON: They are subject to revision.

The PREMIER: Yes. There is no magic in 50 or 25 miles any more than in 47, 48, or 60; it is simply a question, with the knowledge we have of the conditions of the country, as to what is the best definition to give. In the

western country the watercourses often run perhaps for 50 or 100 miles without any water at all in them, except on rare occasions, and with respect to which some provisions must be made entirely different from those which are supposed now to exist under the common law of England. The definitions suggested with respect to main watercourses that are declared to be of public right as distinguished from private right, are contained in section 9, and are the following :—

"When a watercourse is such that the flowing water therein discharges itself into the sea or into a river at a place where the tide ebbs and flows, then that part of the watercourse in which water ordinarily flows is a main watercourse."

Before proceeding further I will refer to the distinctions proposed to be taken between a main and a minor watercourse, and these are declared by sections 11 and 12 and the following sections. The 11th section provides that the soil of a main watercourse belongs to the Crown and not to any private person. The 13th section provides that—

"No private person may store water in a main watercourse, or intercept the flow of water therein, or divert the flow of water therefrom, without the sanction of the Crown."

Whereas, with respect to a minor watercourse, the Bill provides that "the soil of a minor watercourse belongs to the proprietors of the adjacent land." Then there are special provisions, to which I shall call attention directly, as to the rights of owners of land to minor watercourses, to deal with the water in them. I will revert now to the definitions of a main watercourse. The first I have already read, where the flowing water discharges itself into the sea or a tidal river. The first, of course, applies to the coastal rivers on the eastern side of the colony, and those near the coast on the shores of the Gulf of Carpentaria. The second definition, for the most part, deals with the western watercourses, although it also applies to the heads of many of the eastern watercourses. It is as follows :—

"2. When a watercourse is such that ordinarily, or after heavy or continuous rain, water flows therein for a distance exceeding fifty miles measured along the course of the flowing water, or for a distance exceeding twenty-five miles measured in a straight line from point to point, then, whether the flowing water in the watercourse discharges itself into the sea or into a river at a place where the tide ebbs and flows or not, so much of the watercourse as is distant from the source not less than fifty miles measured along the course of the flowing water, or not less than twenty-five miles measured in a straight line from point to point, is a main watercourse."

All except the heads of the streams are deemed to be main watercourses. The paragraphs which follow are subsidiary definitions as to what is to happen when the main watercourse is formed by the junction of two or more tributaries. Then it is proposed to declare that the soil of a main watercourse belongs to the Crown. Most people suppose that it is so now ; but I am afraid it is not so. I do not know whether it has ever been decided in this colony ; but it is a disputed point which ought to be cleared up. The rule laid down is a clear one, and ought to be adopted, though whether it is necessary to do anything to conserve supposed vested interests is a question for discussion. This rule ought to be adopted, I think. It is extremely unfortunate that it has been held in some of the colonies that a rule which was a very good rule when laid down in Great Britain long ago as to the ownership of soil in a watercourse or in a road should be applied here. In the older country from which we come, where the history of the tenure of a particular piece of land is generally lost in antiquity, if it fronted a road or a watercourse the owners of the land on each side are supposed to own the road or the watercourse up to the middle of it, subject to the use by the public of the road or watercourse. Nobody knew when the land was granted, as it was so very long ago, and it was very likely in the case of a road that originally the two adjoining owners agreed to set apart a portion of their property for the use of the public. That was a very reasonable thing to suppose there, but in this country, when land is sold fronting a road, it is defined as being bounded by the road. The boundary is laid down as being the road, and why, therefore, should a rule, applicable entirely to a different state of circumstances, be introduced here? Although the deed of grant says that the road is the boundary, under such a rule it would not be the boundary. I do not know that any decision of the kind has been given in Queensland. I do not think it has been, and it is very unfortunate that it should have been given anywhere else in these colonies. The boundary of a piece of land sold here may start from a tree on the bank of a river and be continued to another tree on the bank of the river, and that is stated in the deed of grant. And why should it be held when the boundary is said to run along the bank of the river that the land is really bounded by the middle of the river, which may be a quarter of a mile from the defined boundary?

Mr. MOREHEAD : The bank of a river is not a fixed quantity in Queensland.

The PREMIER : Sometimes it is not, but that is a matter of detail, not of principle. Why, I say, should the boundaries of land that are distinctly marked and start from a given point at one end and run to a well-defined point at the other, be shifted laterally for a considerable distance into the middle of the river? A fixed rule of that kind, though I doubt whether there is one in these colonies, would be a most unsuitable rule to apply to the circumstances of this country, and would, of course, interfere very seriously with the administration of a measure of this nature. We propose in the next place to deal with those minor watercourses which, in the peculiar circumstances of this colony, require different treatment from that prescribed by the rules of law which are supposed to be in force in the colony ; and they are dealt with in the 14th, 15th, 16th, and 17th sections of the Bill. As to the definitions of main and minor watercourses, there may be differences of opinion, but I think that the rules laid down will very likely be considered to be reasonable as applying to the circumstances of this country. The 14th section provides that—

"Subject to the provisions of this Act as to the rights of the public to use natural water, and to such conditions and restrictions as may be prescribed by the Crown in any particular case, the proprietors of the land through which a minor watercourse passes may store water therein, may intercept the flow of water therein, may divert water therefrom, and may use the water so stored, intercepted, or diverted, for any lawful purpose. But the Crown may forbid the exercise of any such rights."

Hon. members will bear in mind that the word "Crown" means the public exercising its rights through the water authorities having jurisdiction in a particular place. The power to divert water from a watercourse or to store water may be used to the detriment of the public interest, and there ought to be authority in some way to prevent the exercise of any such power to the injury of the public. Then the question must be dealt with of a minor watercourse passing between the lands of two adjoining owners. There the proprietors of the lands have a joint interest in the watercourse, and with regard to such cases it is provided that—

"Neither of them may, without the consent of the other, intercept the flow of water in that part of the watercourse which divides their lands, or divert water therefrom."

And there are provisions for dealing with the matter if the proprietors do not agree. Then the 16th section deals with the question of minor watercourses flowing through the lands of a succession of proprietors. And with respect to that, the rules laid down are to a certain extent those of the common law, and to a certain extent the same as those of the French code to which I made reference when moving the second reading of the Bill of last year. The first rule is that where a minor watercourse passes through the lands of more proprietors than one—

"The land on the lower part of the watercourse is liable to receive all water which naturally and without any artificial aid or interference flows over it from the higher part of the watercourse."

No one can, I think, dispute the propriety of that. The second rule is that—

"The proprietor of the lower land may not obstruct such flow to the prejudice of the proprietor of the higher land."

I think no one will dispute the propriety of that. And the third rule is that—

"The proprietor of the higher land may not do anything which will increase the flow of water over the lower land beyond the natural flow."

That also is a reasonable provision.

Mr. MOREHEAD: Supposing his dam is carried away?

Mr. LUMLEY HILL: It seems to me that nobody may do anything at all.

The PREMIER: I do not think anybody under these provisions will be allowed to do anything to injure his neighbour. I am sure he cannot under the present law. If anyone violated these rules at the present time he would be called upon to pay damages, and very reasonably. And I think if you put the converse of this proposition it would be manifestly unreasonable. The fourth rule proposed to be laid down is entirely contrary to the present law. I think that probably the present law may be put in this way: that the proprietor of the higher land may not do anything which would diminish the natural flow of water on to the lower land. If that rule continued to apply it would very much interfere with the storage of water. The rule is not applicable to Queensland. We propose to substitute for it the following rule:—

"The proprietor of the higher land may intercept water, and erect dams or other works for the storage of water, upon that part of the watercourse which is within his land, notwithstanding that the flow of water to the lower land is thereby diminished, but in such case he must take reasonable precautions to prevent any sudden or injurious flow of water from his land upon the lower land."

That deals with the case of a dam breaking away. I certainly think it is the only rule which can be adopted, if water is to be stored in watercourses in which it is most necessary to be stored. Then the remaining rule laid down states that—

"The proprietor of the higher land may not divert water from the watercourse for the purpose of storage without the consent of all the proprietors of the lower land within a distance of *twenty-five* miles measured along the bed of the watercourse."

Although it is fair that a man should be allowed to put a dam across a watercourse provided that he takes reasonable precaution to prevent injury being done to the proprietors below, it does not follow that it is fair to take away the water from them altogether. That would be doing an unreasonable injury to the proprietors of the lower land. It is proposed, therefore, that a man should not be allowed to divert water without the consent of the proprietors of the lower land. Of course it is not suggested that these rules are perfect, but with the light thrown upon the subject by the debate of last year, and with the best information we have been able to get since, we have not seen our way to alter them materially. I do not think they have been altered at all in substance from the form in which they were introduced in the previous Bill. Then there are provisions which I think should be properly introduced into this Bill—namely, as to what is to be done for the purpose of determining disputes that may arise. A man on one side of a watercourse may want to do some work, and his opposite neighbour may refuse to allow him to do it. An unreasonable objection in a case of that kind must be disposed of in some way, and provision is made for that purpose. Then another question that may naturally arise is how to determine, in the case of a particular watercourse, under which category it falls. If this is left to be determined by litigation there may be interminable disputes; different juries may give different verdicts. It may happen in one case, between A and B, respecting a particular spot on a watercourse, that the jury may decide that it is a minor watercourse, and that therefore A and B have certain rights. Another jury may decide between C and D that, at a point ten miles off, the watercourse is a main watercourse, and thus the disputes would be interminable. It is necessary, therefore, if we should adopt the distinction between main and minor watercourses, which I maintain is necessary, to provide some simple and satisfactory mode of settling the question. The question is one which should be determined partly by surveyors and partly by experts. Accordingly provision is made in the 18th clause that reference should be had to two competent persons to inquire into and determine the disputes. The mode of procedure under those provisions is equivalent to the one very much used in olden days of what was called an inquisition, that is a local inquiry, the report of which was sent in in a formal manner and recorded in the courts of justice. It was a well-recognised way of ascertaining the facts locally. The 19th section deals with a question that must have pressed itself on the notice of everyone acquainted with the watercrouses in the interior where there are sometimes several channels. It is impossible to lay down any hard-and-fast rule with respect to them, as to which should be deemed main and minor watercourses, but we can lay down general principles, and the question whether a channel is a main or a minor watercourse can be determined by investigation on the spot. The 20th section provides that the powers of the Crown with respect to watercourses and water areas shall be exercised by the water authorities. Where a part of the colony has been placed under a water authority, the water authority ought to be the tribunal to deal with those questions. In the State of Colorado, to which I referred before, the authority is called, I think, the county board, which is a local authority. That, however, is a matter of detail, which can be changed from time to time if necessary. The 21st section provides that if there is no water authority the Minister in charge of the department shall exercise the powers of the Crown; and by the last section all laws and rules of law inconsistent with the rules declared in this Act are repealed. I invite the most careful attention of hon. gentlemen to this Bill. It deals with a most important and most difficult question. It is submitted to the House with a considerable amount of diffidence because the subject is one which, so far as I know, has not been attempted to be dealt with so fully anywhere else. It is not likely that its provisions are the best that can be made, but they have, at any rate, received the fullest consideration of the Government for a period of more than a year, and we have had the advantage of a long interval between its first and its final consideration. I ask and entreat

the best attention of hon. members on both sides of the House to this question. It is not in any way a party question, but one on which many members on both sides possess special knowledge; and every hon. member who has any contribution to make to the general knowledge on the subject ought to give all the information in his power, because on a satisfactory settlement of this question of water rights will depend, to a very great extent, the use which can be made of immense quantities of land in the interior of this country.

Mr. NORTON said: Mr. Speaker,—There is no hon. member who will not admit that the question is a most important one; and I think it will be admitted by those who were here last session that the effect of the discussion which took place then has been most beneficial. I think the Chief Secretary has done wisely in separating this subject as much as possible from the local subjects introduced in the last Bill, and making it a more general question. In that respect the measure is a decided improvement on the Bill introduced last year; but there are one or two points, the effect of which I admit at once I can scarcely realise. First, as regards the use of the term "Crown," the Chief Secretary has explained that the term is used to signify the public. When I read the Bill I was rather puzzled, because it seemed to me so inapplicable in a Bill introduced into this Chamber. In the Crown Lands Act I do not think the term is used, but it is used here in the same sense in which the term "Governor in Council" is used in other Bills. Has the Premier been influenced by being present at the Imperial Conference—has he been guided by his Imperial feelings to substitute the word "Crown" for the term "Governor in Council"? Let me ask the hon. gentleman to read some of those sentences where the term "Crown" is used—the term which he defines as the public. In the 5th section we read, substituting the word "public" for the word "Crown":—

"Provided, nevertheless, that the public may impose certain restrictions."

Surely that is not intended. How are the public to do it except through the Governor in Council?

The PREMIER: That is all provided in the Bill.

Mr. NORTON: Why not use the term "Governor in Council"? No less than four times in the last two paragraphs of the 4th section the word "Crown" is used where "Governor in Council" is evidently intended. In some places, I admit, the word is used properly, but I do not see why it should be dragged in where it is not wanted. In the 14th section we find that conditions and restrictions may be prescribed by the public. Is not that an absurdity? The "Crown" cannot mean the "public." The last sentence in the section says: "But the public may forbid the exercise of any such rights." I know the hon. gentleman, when he speaks of the public, or the Crown, means the Government; but why does he not say so? Why does he not use the term ordinarily used in Bills—namely, "Governor in Council"? The effect is confusing, and until I heard the explanation of the Premier I thought the Bill had been copied from some Act in force in Great Britain or in a Crown colony. I may say that I largely agree with the hon. member when he says it is the business of the Government to take a firm stand in dealing with the matter of water rights, and that they should declare at once what are the rights of the State clearly and distinctly, so that there may be no mistake. But if there are certain rights already granted to the purchasers of land with water frontages or lagoons on their land, then I say that those rights ought to be preserved, whatever we do in the future. We cannot dispossess them of rights they have lawfully obtained; and I think provision ought to be made in the Bill to secure them the rights that actually belong to them. If we take their rights from them they will be entitled to compensation.

The PREMIER: There is nothing in this Bill to take any right from anybody.

Mr. NORTON: I do not know whether it is so or not. I think there is, as I will show the hon. gentleman, from the 4th section. That clause says that the water in every natural watercourse, lake, or lagoon, is the property of the Crown, "and not of any private person." Now, I do not know, in the first place, what is the meaning of this term "lagoon": is that merely a waterhole? A lake we generally understand to be a large waterhole, and a lagoon is a small waterhole. What we commonly speak of as a waterhole is, of course, a pond—any depression which contains water in larger or smaller quantities. Where there is a small collection of water we generally speak of it as a waterhole or lagoon; but we ought to know what lagoon means here. If I were to purchase a few hundred acres of land with a waterhole not bigger than this room, would the water in that hole belong to the public? I do not think it should. I have known many instances where persons have bought some hundreds of acres of land, for the sake of the water in a hole on the land. The money they paid has actually been to secure the water that they believed belonged by right to the person who owned the land. We know that in numberless instances selections have been taken up in different parts of the country containing waterholes which were supposed to be permanent; and the special object in taking up those selections was to secure those waterholes and the water they contained. Now, surely those men who have taken up land in that way have a right to the water. I take this view—that all water which falls from the clouds upon land belonging to a person and collects in a natural depression, and remains there, is his; all the water which falls on the land and passes off ought to belong to the public. We must make some distinction of that kind, because persons must have some rights to water which falls on their own land. The 5th clause speaks of "any person who is lawfully entitled to access to a natural watercourse, lake, or lagoon." Now, I do not know, from the way in which this Bill is drafted, whether a proprietor is entitled to access or not. It is specially defined in the case of a main watercourse that his right ceases at the bank. Now, if his right ceases at the bank, and the water is not his but belongs to the public, it is very doubtful whether he has access to the water. I do not wish to raise objections to the Bill; I merely point these matters out because I think they may have escaped the attention of the hon. member. It appears to me that when the Bill gives the water to the public and shuts the owner of the land off from anything beyond the bank, he cannot have access to the water.

The PREMIER: Why?

Mr. NORTON: I think it is extremely doubtful.

The PREMIER: Anybody who can get to the bank can get to the water.

Mr. NORTON: If he is excluded from going beyond the bank he cannot get the water. All the soil of the watercourse and all the water belong to the public.

An HONOURABLE MEMBER: He is one of the public.

Mr. NORTON: Undoubtedly; but all the public cannot have access.

The PREMIER: They cannot go across his land; but he is one of the public, and he can go across his own land.

Mr. NORTON: I think that in attempting to define this too closely we may fall into the error of shutting off a man from the rights he now possesses. I should certainly like to know who it is that is lawfully entitled to access.

The PREMIER: The owner of land has lawful access to any stream running through it.

Mr. NORTON: I am not at all sure of that. Now I pass on to the 9th section. According to that section, as I pointed out last session, there are many places where every paltry little gully becomes a main watercourse. My attention has been specially directed to this, because I happen to have a run—a narrow strip of country land beside the sea—and all the watercourses empty themselves into the sea. All these would be main watercourses according to this Bill; and so it is with all the creeks about Brisbane. The hon. gentleman, I know, did not intend that. Any stream running into a tidal river is to be a main watercourse, though it might not be more than four or five miles long. Of course that is a matter which will have to be altered.

The PREMIER: It will have to be considered.

Mr. NORTON: It will have to be carefully considered. If watercourses fifty miles long are to be minor watercourses, I do not see why small short creeks running into tidal rivers should not be minor watercourses also. There may be some exceptional cases, but in the majority of cases I think it ought to be so. The 11th section appears to me to interfere with the rights now possessed by persons who have land on which there is water. That is the section to which I particularly referred when I said that all rights which now exist ought to be carefully protected or compensated. With regard to the mileages, of course the hon. gentleman has explained that they are not intended to be considered as part of the Bill, but are subject to revision. For instance, I do not see why, by the 5th subsection of section 16, the distance of twenty-five miles should be fixed upon as the distance within which the proprietor of the higher land may not divert water without consent of those lower down. There is no reason why it should stop at twenty-five miles and not be fifty miles, as in the case of main watercourses. Then the 17th section is one I should refer to. It says:—

"If a proprietor of land bounded by one bank of a minor watercourse desires to construct a dam or other work which would or might have the effect of intercepting the flow of water in such watercourse, and the proprietor of the land bounded by the other bank of the watercourse objects to his doing so, or if the proprietor of higher land desires to divert water from a minor watercourse for the purpose of storage, and a proprietor of lower land on the watercourse within the distance in the last preceding section mentioned objects to his doing so, then, and in either of such cases, either party may refer the matter to the water authority."

Of course that is a mistake, and the hon. gentleman will see that I am right there. It is not bounded by a bank but by the stream itself. With regard to the settlement of disputes, I think some such special provision as is made here will have to be adopted; that some board will have to be appointed for each district for the settlement of disputes which may arise between different proprietors. Of course disputes will arise in many cases unless the law is so clearly defined that it is impossible for any man to misunderstand it. We all know what the value of water is; at any rate those who have been in the back country know it. Both here and in New South Wales we know how the right to intercept the water which flows down only occasionally has led to endless trouble and litigation. The hon. gentleman referred, I suppose, just now to the difficulties which have taken place in New South Wales in regard to dams. Well, I happened to be in the Riverina district at the time a number of disputes were going on, and they not only led to a great deal of trouble at the time, but they led to a great deal of destruction of property. Large dams were cut away in a night which had taken months to build; that led to endless unpleasantness, and in the end it led to litigation. Of course these facts point to the necessity of introducing some Bill of this kind, and introducing it as early as possible. On that account I am quite prepared to support the hon. member, so far as I can, in getting the Bill through; but the real difficulty I see now is in the first place to know what rights proprietors have. I feel certain that the owner of any land which includes a waterhole has a right to the water it contains; but I believe also that if he wishes to intercept the water either in a small or large watercourse, the rights of others who are proprietors below him ought not to be left out of the question. It ought to be well laid down that their rights to the stream are secured as well, and that he is not justified under any circumstances in stopping the flow of the stream, when by doing so he may cause them a great deal of loss and inconvenience. I do think that, in drawing up a Bill like this, every precaution will have to be taken that the rights which exist are preserved, and that rights which do exist, or which would have existed under the present law, ought to be, as far as they can be, secured to the Crown. I feel a great difficulty in speaking on the Bill, because it deals with matters of so much importance that one is almost afraid to form one's ideas on the subject through fear of being misled by some prejudice or by false representation of the case, which may have the opposite effect to that which is desired. So far as the question of access to water goes, that is a question I feel some doubt about. I believe that in all cases the travelling public should have a right to go to any water on freehold land and take what they require for their daily wants; but if they go beyond that they ought to pay for what water is used. They cannot have the right to take water from a private waterhole or artificial waterhole or dam without paying for it, and so far, I think, the proprietor of the water has a right which cannot be interfered with. I am glad that the Bill has been so far simplified, and I can assure the hon. gentleman that I have no desire to pick it to pieces for the sake of making objections to it, but simply to point out the difficulties that may arise if the Bill is passed in its present form.

Mr. LUMLEY HILL said: Mr. Speaker,—I was very glad indeed to hear the Premier say that this was a Bill that required very serious consideration, that it is really a most important matter, and that he will be very glad to accept suggestions even from points of view which may not exactly meet his own. I am perfectly aware that if he likes he can pass the Bill as it stands.

The PREMIER: Nonsense!

Mr. LUMLEY HILL: Of course he can; he has only to take it to a division, and it will go through flying. There are some points in it to which I take great objection, and if the merits of the Bill are carefully discussed in committee, as no doubt they will be, I sincerely hope that many of the clauses will be very materially altered. I refer more especially to the interpretation which the Premier himself puts upon the words "the Crown." He interprets that as "the public," and therefore

whatever rights belong to the Crown under the Bill belong to the public. A man who has acquired by purchase, selection, or leasehold, land adjoining his holding, which he has perhaps merely taken up and paid rent for, bought or leased, on account of the water which exists there, has no longer any right to the water that is there. It is the property of the Crown—that is to say, of the people. He has no longer any lawful right to what he has paid for. The public have a right to that water, and of course they are a majority. And the public have a right not only to go on a man's property and take his water, but to eat his grass, or lucerne, or whatever he may have growing there. They cannot get at the water without going over the ground which the man has paid for, and on which he is growing crops or natural grass. If the public have a right to get to the water, they must eat the owner's grass as well as drink his water. And, therefore, the individual who has paid money for the sake of acquiring certain rights will be utterly out in the cold. The public can come in at any time and say, "This is a natural waterhole, and we are going to drink the water"; and if by an accidental undesigned coincidence they also eat the man's grass, he has no right to grumble.

Mr. DONALDSON: But how are they to get there?

Mr. LUMLEY HILL: The water belongs to the Crown, and the Crown is the public. They cannot swim or fly to the man's water. They must go over his land. They have a right by this clause to go over his land to get at the natural water. If the clause is passed as it stands, I maintain that the Crown—that is to say, the public, according to the interpretation of the Chief Secretary—have a perfect right to go over any man's land to get to any natural water which exists upon it, whether the land is a selection, a freehold, a leasehold, or anything else; and as they cannot fly, they must go over the man's land. This clause constitutes their right to do so.

The PREMIER: No. When they get to the water they can take it.

Mr. LUMLEY HILL: Then I must get a new vocabulary and learn English afresh. I am all astray in the meaning of words. It is plain to me that this natural water is the property of the Crown, and the Premier himself says that the Crown is the public, and to get to the water they must go over land that belongs to somebody else.

Mr. WHITE: They can only get to the water if access is given them.

Mr. LUMLEY HILL: I am getting utterly out of my reckoning if that right is not given to them here. They are lawfully entitled to go over any man's ground to get at the natural water he has within his boundaries.

Mr. KATES: They are not lawfully entitled to do so.

Mr. LUMLEY HILL: The public, being the Crown, may go over any man's land to get to any natural water there may be upon it, and on account of which he may have bought, leased, or selected the land. Some of the clauses are eminently contradictory. I have no wish to speak at length on the subject at this stage, but when the Bill gets into committee it will have my earnest attention. There is another defect in the Bill which I should like to point out very strongly, and that is in the 16th clause with the subsections attached to it. If the first three of those subsections are passed nobody will be able to do anything, and nobody will do anything, in the way of conserving water. Every possible encouragement should be given by the Government of this country to people to conserve or improve water. I thoroughly believe in it, and I will go with the Government as far as any man can possibly go in giving that encouragement. The greatest benefit that can be conferred on this colony is to encourage men to conserve water, and I will go as far as possible with the Government to encourage and enable people to do that. That section should, in my opinion, be made more comprehensive altogether. I believe that people who have the heads of watercourses should, irrespective of people lower down, be allowed to detain as much water as they possibly can. They should certainly not be allowed to divert water; but there should be no restriction whatever against their detaining as much as they possibly can. That would be, I think, fair to all parties, and unless they have ample provision and protection to detain water nothing at all will be done. It is contrary to reason to think that anybody on higher land would put up a dam which he has not taken reasonable precautions to prevent from being washed away for fear of inundating his neighbours downhill. He will take all reasonable precautions to make his dam such that it will not be washed away, not for the sake of his neighbours lower down, but for the sake of getting all the water he can for his own use. I consider that subsection 4 as it stands is utter rubbish. No man will erect expensive works which are going to be swept away, not, as I said before, on account of his neighbour down the hill, but solely on his own account.

The PREMIER: Such things have happened.

Mr. LUMLEY HILL: They have happened, but not because the persons who erected dams did not take reasonable precautions to prevent them from being swept away. I really think that the Bill, if passed as it stood, would be a very fruitful source for the lawyers. Many of the clauses are entirely conflicting, and the interpretation of them will be very difficult. It may make a good deal of food for lawyers; and, on the other hand, the encouragement to people to improve or conserve natural water is, I consider, not sufficient. I must say that I am disappointed with the Bill, and I hope it will be very carefully considered in committee.

Mr. MOREHEAD said: Mr. Speaker, — I quite agree with what has fallen from the hon. the Premier and from the hon. member for Port Curtis. I certainly agree with the Premier that this Bill can be in no way considered a party question. It is a question that will be dealt with, I fancy, by every member of the House entirely apart from anything like party lines. I must admit, however, that there are some clauses which the more I look into the more puzzling they become. For instance, there is the 4th, which I must admit that I do not understand, although I have tried hard to do so. It says:—

"The water in every natural watercourse, lake, or lagoon is the property of the Crown and not of any private person, and is dedicated to the use of the public, subject to such conditions as may be prescribed by Parliament from time to time with respect to such use."

That seems to me, if my interpretation is correct, to strike at private property. It seems to amount to an annexation of all waterholes, lakes, lagoons, and so on, in the country, that are included in deeds of grant at the present time to freehold property. Am I right in so assuming? If that is so, very heavy compensation will have to be paid to those who own those watercourses, lakes, and lagoons, or whatever they may be, if they are to be made available to the public. Because, although this Bill, if it becomes law,

may enact that these watercourses, and so forth, are the property of the Crown, they will be of no use to the Crown unless access is given to them, and that access can only be obtained by giving compensation to the owners of the land through which the waterholes will be approached. That seems to me, if I am right in my interpretation of the clause, to be rather a stumbling-block with respect to dealing with lands already alienated. With regard to clause 5, which deals with rights to take water, it seems to me that the 2nd subsection of that clause will have to be somewhat modified. It says :—

"Any person who is lawfully entitled to access with his cattle to a natural watercourse, lake, or lagoon, may water his cattle with the water thereof, and may for that purpose take and consume so much water as is necessary."

That is to say, that a man with 100,000 or 200,000 sheep may practically destroy a waterhole so far as regards the use of it by any other person.

The PREMIER : Look farther on.

Mr. MOREHEAD : Even looking farther on. That, of course, might be met by regulations to be made under the Bill, if it becomes law. I am only pointing out, in a perfectly friendly spirit, the weak points of the Bill as they occur to me. I think there must be some limitation made in that clause. Of course it is very difficult to define or divide main and minor watercourses, and that difficulty, I fancy, will give considerable trouble to the water authority, whoever he may be, or to the Minister, assuming that he is working the Act, if there is no water authority appointed. Then the 11th clause says :—

"When under any deed of grant from the Crown heretofore issued or hereafter to be issued, any land thereby granted is described as bounded by a watercourse which is by this Act declared to be a main watercourse, that description shall be taken to mean that the boundary is the bank and not the middle line of the watercourse."

That, Mr. Speaker, at first glance seems to be a very material interference with existing rights. Surely it is not proposed that merely by a clause in a Bill of this sort the rights of existing landholders, who may be affected by it, are to be ignored. There again some considerable compensation may have to be given. I do not intend to detain the House long, but there are one or two points I should like to call attention to before the Bill goes into committee. Clause 15 provides :—

"When a minor watercourse divides the lands of two proprietors, neither of them may without the consent of the other intercept the flow of water in that part of the watercourse which divides their lands, or divert water therefrom."

That, to a certain extent, is met by clause 17, which provides for a sort of appeal; but it appears to me that it will lead to a great deal of heart-burning and trouble unless the law is made more definite than is proposed here. With regard to clause 16, I agree with the hon. member for Cook ; I do not like it at all. It is a very difficult clause to deal with, and may be better dealt with in committee. I agree with the Premier, and, to a certain extent, also with the hon. member for Cook, that lands lower down watercourses may be flooded through the improper construction of dams on the upper part of such watercourses ; but, on the other hand, it may happen that persons holding the upper part may not have the means to go in for such extensive dams as would be necessary to make permanent storage of water. When I say "permanent storage" I mean storage that would resist any possible flood. Therefore they might be made liable for what was really the act of Providence ; a heavy fall of rain might come, and the dam, which would stand any ordinary rush of water, might be swept away and do damage to those on the low-lying portions of the creek. I come now to clause 17, which I consider a very important one :—

"If a proprietor of land bounded by one bank of a minor watercourse desires to construct a dam or other work, which would or might have the effect of intercepting the flow of water in such watercourse, and the proprietor of the land bounded by the other bank of the watercourse objects to his doing so, or if the proprietor of higher land desires to divert water from a minor watercourse for the purpose of storage, and a proprietor of lower land on the watercourse within the distance in the last preceding section mentioned objects to his doing so, then, and in either of such cases, either party may refer the matter to the water authority."

Well, take the case of a man on one side of a minor watercourse who was consulted by his neighbour on the other side as to the propriety or otherwise of erecting a dam. There might be many objections urged by one of them. He might say, "No, I have got only a small number of stock, the water on my run is sufficient—I do not want more ; you are overstocked and therefore want more." That might be a fair and reasonable objection. Or he might say, "I have not got the means ; you are well off ; you have money ; I have not ; I am already deeply in debt ; I cannot borrow any more ; therefore I cannot help you to go in for the water conservation scheme." I take it, however, that in regard to such matters provisions similar to those in the Fencing Act might be introduced. These are two objections that might be raised. There may be many more ; but I admit at once, and candidly, Mr. Speaker, that the object the Premier has in view in introducing this Bill is a very good one. It is one that is certainly of great national importance, and I hope and believe that every member of this House will do what he can to try and put this measure, bristling as it is with defects, in the best possible condition before it passes through committee. That some such measure will go through committee and become the law of the land I hope and trust, and I can assure the Premier that, so far as the conservation of water is concerned in this colony, I do not think there can be two sides to the House.

The HON. J. M. MACROSSAN said : Mr. Speaker,—I would like to say a few words upon this Bill before it passes its second reading, and I may say that nearly all the criticism that I have heard so far, since the Premier himself spoke, has been more in regard to the details of the measure than in regard to its principle. I agree entirely with the principle of the Bill ; but there are several details contained in it which I do not agree with. I am not going to criticise those details, but simply state what I believe ought to be done so far as regards natural water. I think that the statement contained in clause 4 is a mistake, in so far as we cannot, in this House, take any right away from a person who at present possesses it. There can be no doubt in my mind, or in the mind of any hon. member in the House, that, if a man has bought a piece of land containing what is called here a lagoon, no action on the part of this House can take that away from him, or give any other person the slightest right to it, except by paying compensation.

The PREMIER : That is quite right.

The HON. J. M. MACROSSAN : I think a mistake has been made in distinguishing two kinds of watercourses. I believe we should first arrive at a decision as to what a natural watercourse is. Let us have only one kind of watercourse. Let the State claim all the water contained in every watercourse in the colony, of

course reserving existing rights. That, I believe, should be the principle contained in the Bill, and we should get away from the difficulty which is contained in the definition and in the working out of the details of the law of watercourses. The case mentioned by the leader of the Opposition as to the difficulty in men agreeing as to the making of a dam is simply a sample of what will take place if we stick to the definition of two watercourses, and give private individuals the right to the water in minor watercourses. That, I think, should not be submitted to. The State should own all the watercourses, and every natural watercourse, preserving the rights of the proprietors who have made dams in those watercourses, and give the control of the water, subject to those rights, to the water authority of the district. I think that would be the means, not only of preventing litigation, but it would also be the means of increasing the conservation of water to a much greater extent than we have it at present. I think the sooner this Bill passes the better, because the longer it is delayed the more rights will there be accruing under the existing law; therefore the Bill should be passed this session by all means, and I am very glad that both sides of the House have come to the conclusion that this is not to be considered a party measure. It cannot be, in any possible sense, considered a party measure, because both sides of the House have the same interest in it. Every hon. member has an equal interest in it with his neighbour, and I, for one, will give the Premier all the assistance I can in making the Bill law and become an Act. But at the same time I shall try to carry out my idea as to what should be the principle in dealing with it so far as concerns making all water belong to the State. It is a principle which has been carried out in the most civilised and advanced countries in Europe. It is also carried out in the most advanced States in America. The Premier himself has told us what is done in the State of Colorado, and other States have followed in the same direction, but not to the same extent. Unfortunately some of the older western States have allowed matters to go so far that it is almost impossible for them now to do what the State of Colorado has done, because the compensation required would be so great. The compensation in the State of California would probably amount to £100,000,000. Therefore they could not do it. But no compensation of that kind will be required from us. We have not got so far as that; and I think if any compensation is required it will be very little. I believe we shall receive great aid in discussing the details of the measure from gentlemen who are well accustomed to the western interior of the colony, such as some I see sitting around me, and I am certain that they will be able to give more practical information to the members of the House than gentlemen who are not so well acquainted with it. No doubt it will be a difficult matter to arrive at a well-defined principle; but if we simply make an attempt now and try to improve if necessary every year, as we have been doing in the case of other principles which we have established, such as the Divisional Boards Act, we shall find out our weak spots, and can amend them to such a degree that we shall become an example to the rest of Australia.

Mr. KATES said: Mr. Speaker,—I am sure that the hon. gentleman at the head of the Government deserves the thanks of this House and of the whole country for introducing this measure at such an early period of the session. Certain rules have been laid down in this Bill which, in some respects, are not altogether perfect. But it is better to have those rules than no rules at all. The hon. gentleman at the head of the Government has declared what main watercourses are by a distance of fifty miles in length, and minor watercourses by a distance of twenty-five miles in length. Of course, we cannot lay down any hard-and-fast rule in this respect, as it very often happens in this country that minor watercourses contain larger areas of water than even main watercourses. But of course a line has to be fixed, and I do not think the Premier is wrong in putting it at distances of fifty miles and twenty-five miles. The hon. member for Townsville, who has just sat down, has told us that all over the world the necessity of defining natural watercourses has been recognised. The Premier has told us, sir, what has been done in the way of legislation in Colorado, and I will mention a few instances of what has been done in the other parts of the world. We find that in Italy, France, Spain, and India, the question of water rights has been perfectly set at rest by successful and benevolent legislation. In Italy the rivers and torrents, and generally all those portions of the State territory which cannot become private property, are considered as dependencies of the royal domain. There they have found it necessary to define natural watercourses on behalf of the Crown. In Spain, the law of water contains a clause stating that there shall pertain to the public—firstly, the waters which spring perennially or intermittently within the public roads; secondly, those of rivers; and thirdly, those of the springs and torrents which flow through their natural channels. That is the law in Spain. We find in India that the preamble of the North Indian Canal Drainage Act begins—"Whereas throughout the territories through which this Act extends, the Government is entitled to use and control for public purposes the waters of all rivers and streams flowing in natural channels, of all lakes and other natural collections of still waters," &c. There we find, also, the Crown assumes the right to all natural watercourses, and even coming nearer home we find in South Australia the 141st clause of the Water Conservation Act says that the Governor from time to time may by proclamation order that all or any lakes, rivers, or creeks in any water district shall be under the exclusive control and management of the commissioners. So that we are not a bit too soon in this country in defining our natural watercourses. One thing the hon. gentleman who introduced the Bill has omitted. He allows the owners of land adjacent to watercourses a supply for domestic purposes and for cattle, but he says nothing in the Bill about a supply for manufacturing industries. A person who is engaged in a manufacturing industry should be allowed an ample supply of water to carry on his operations. Whatever may be the merits or demerits of the details of the Bill, I am sure hon. members on both sides will admit it is a very necessary measure. I am glad we have at this time an introductory Bill brought in which will be followed hereafter by a measure dealing with water conservation and irrigation. I will heartily support this Bill, which is a step in the right direction. I am sure the country will be pleased to see it brought in now, and with the assistance of hon. members on both sides of the House, the Bill, I am sure, will become law.

Mr. STEVENS said: Mr. Speaker,—It has been already stated by previous speakers that this Bill is of considerable importance, and I think it one of the most important measures ever brought before us. The Government, I consider, deserve to be highly complimented for grappling with this question, which has evidently puzzled or daunted the Legislatures of the adjoining colonies. A good deal of discussion has taken place upon the use of the word

"Crown" in this Bill. If I am not mistaken I understood the Premier to say that it means the water authorities more than anything else.

The PREMIER: The Bill says so.

Mr. NORTON: The public.

Mr. STEVENS: Well, the public is represented by the water authorities. There is, however, no machinery indicated in the Bill as to how the water authorities shall be appointed. Although it has been mentioned that that will form part of the contents of another Bill I think it would have been a good thing to include it in this Bill. There are one or two other matters which are to be the subject of another Bill, but which, after studying the Bill and listening to the debate, ought, I think, also to be included in this Bill. One of the previous speakers—I think, the hon. member for Cook—said that although water should be stored, it should not be diverted from its natural channels, as that in all cases would do great injury. I know of one instance where the water, if diverted from the main channel of the Warrego, so far from doing any injury, would be of the very greatest service to the back country. The Burroo leaves the Warrego and traverses some of the richest land in the district, and then finds its way back to the river. In such a case it would be of the greatest use that the water might be diverted as well as stored. Clause 4 has been the subject of a good deal of discussion, inasmuch as it deals with water on private property. At the first glance it would appear that a grievous wrong might be done under the clause, but this is a case in which the context should be read with the text, as it is provided that the flow of water on freeholds can only be used under certain restrictions, and the clause deals only with a natural watercourse, lake, or lagoon. There is another clause further on which, I think, deserves some more consideration even than that clause, and I do not think any hon. member has touched upon it yet. That is clause 7, which says:—

"All persons and corporations who are lawfully entitled to access to water, whether in a natural watercourse, lake, or lagoon, or not," &c.

I take it that the word "not" in that case means water obtained by means of wells, and if that is so it will be a greater infringement on private rights than even the making use of natural water on a freehold. That part of the Bill is certainly most difficult to deal with, as to how far any authority should have the right to deal with water on private land. Take the case of a farmer who has selected land round a small watercourse or lagoon. The water authority of his district may decide that travelling stock in a dry season should have access to that water. There may be only a small supply of water there, barely sufficient for the farmers' wants, and it would be manifestly unfair that the water authority should have the right to take that water from him without being obliged to grant him some compensation. However, in dealing with this subject we have to take things on the broad principle upon which most legislation is generally supposed to be formed. I may add that there is hardly any legislation on large questions which does not more or less inflict injury, and unless some scheme is provided for compensation under this Bill there is no doubt a great deal of injury may be inflicted under it. As, however, these provisions will probably be dealt with by local authorities, it is only fair to suppose that as little harm as possible will be inflicted upon owners of private land. Clause 11 is one which will certainly interfere with existing rights in the case of dams. I suppose it is not intended that dams should be taken away from persons who have constructed them or who own them, without paying them a fair compensation. If that were so, this Bill would be one of the severest ever passed by any legislature. I know cases where thousands of pounds have been spent in the construction of dams across watercourses. They are at the present time supposed to be the property of those who own them, and it would certainly be most unfair if those dams were taken away from them and converted to the public use without compensation being afforded to the owners or those who constructed them. Unless compensation is provided for, the Bill will have the effect of stopping the construction of dams in the future, for this reason: The owner of a run or freehold through which a minor watercourse passes may erect a dam on it and shortly after the water authorities may give the general public, under certain conditions, the right of access to that dam. The more I think over the Bill and the more I consider it the more I am convinced that compensation must be provided for injury done under it. Some previous speakers have objected to clause 16, but I think their objections are met by the succeeding clause providing for determining disputes. Clause 18 deals with disputes as to the character of watercourses, and provides that whenever a question arises between any person and a water authority, or between two or more persons, as to whether a watercourse is a main watercourse or a minor watercourse, the question shall be referred to the Minister, who is required to have an inspection by an engineer and two other competent persons, who shall report upon the subject; but the clause does not say at whose cost this is to be done—whether at the cost of those who appeal, or at the cost of the Government. However, I suppose that is a point that will be settled in a following Bill. I have nothing more to say on the Bill. I can only repeat that it is one of the most important measures that have been brought before us, not only because it deals with existing rights, but also because it will be of enormous advantage to the country at the present time, and if carried out on a fair basis will do more to promote the prosperity of Queensland than almost any other Bill that has been brought forward in this House.

Mr. CHUBB said: Mr. Speaker,—I should like to say a word or two on this question before the motion is put, because I referred to it at an earlier period of the session under a misapprehension. In commenting on the subjects mentioned in the Opening Speech of His Excellency, I was under the impression that in this measure it was proposed to deal with irrigation. In that belief I expressed the opinion that it would be better to defer the passing of this Bill for some time. But inasmuch as the measure is only one to declare the rights of the State with regard to water, I see no reason why it should not be fully discussed, and, if the House can agree upon its provisions, passed into law during the present session. The Bill may shortly be divided into three main parts. First, it is a declaration of the right of the public in respect to water; then there is the division of watercourses into two kinds, with the public and private rights in respect to them; and lastly, there is the definition of public and private rights with respect to water situated on land which has been alienated. Without going into details, which I think it would be more proper to discuss in committee, I think the whole key of the measure may be said to be contained in the 4th clause. The Premier has told us what the law on this subject is in Colorado. That State has gone as far as any legislature has attempted to go, and much beyond the legislation that has taken place in any other of the American States. They have got to the extent there of declaring, subject to existing vested rights, that all water is to be deemed the

property of the State. The Premier asks us to go a step further and not only make this measure prospective but also retroactive, and enact that all natural water in the colony is public property. I do not disagree with that proposition; I think it is the only way in which the question can be satisfactorily dealt with—namely, to lay down broad abstract principles of this character, and on them found all subsidiary rights to be granted to private owners and the general public. The hon. member for Cook misunderstood, I think, the object of the 4th clause. It certainly does not go the extent that he says it does. It is a simple declaration that all natural water is the property of the Crown and by consequence of the public, for the Crown only holds it for the public. But it does not give a right-of-way to anybody to go to that water and use it. Even if a person were able only to fly there, as the hon. member suggested, he would not have the right to consume the water, and he could not consume much on the wing. But this by the way. The right of the public to get to water situated on alienated land will depend upon such conditions as Parliament may from time to time prescribe, and I am quite sure that those will be reasonable and just. The next clause is a statement of what the law is at present in regard to the rights of riparian owners. As I understand it, any person who has land which is bounded by a natural watercourse is entitled to consume as much of the water as he requires for domestic purposes and for watering his cattle. That is the common law right, and the clause does not give any greater right. But there is a proviso that the Crown may impose such restrictions as may, from time to time, be deemed necessary for the purpose of securing equal enjoyment for the use and benefit of the water to the public generally. To that extent the absolute riparian rights of the owner are proposed to be restricted. Then the next proviso states that—

"Water may not be taken from a natural watercourse, lake, or lagoon, for any other purposes than those hereinbefore mentioned except with the sanction of the Crown, and under and subject to such conditions as the Crown may impose, but may with such sanction and under and subject to such conditions be taken for any other purpose."

Of course, as the law now is, any person may reasonably use the water in the natural watercourse to which he has a frontage or access for irrigation, or any purpose he likes so that he does not injure his neighbour; but in this provision the Crown has the power of restricting those rights. Under another clause of the Bill—clause 14—it is provided that minor watercourses may be intercepted, subject to the Crown's right to interfere on behalf of the more important rights of the public. The 6th clause defines priority of right to water and gives preference to those persons who are entitled in respect of their cattle and for domestic purposes. The next clause is one which was referred to by the hon. member for Logan, and which he certainly misunderstood. The hon. member seemed to think that under this provision all persons and corporations who are lawfully entitled to access to water, whether a natural watercourse, lake, or lagoon, or not, could go to a private well and take the water. I take it that the clause means this: that a person is entitled to have access either to water that is in a natural watercourse, lake, or lagoon, or water which has been artificially made by the Government. He may cross private land to get to that, and lay down pipes for conveying the water. The clause deals with public water to which there is no convenient access except through private land.

Mr. NORTON: But the whole of the water on private lands is to be public water.

The PREMIER: Yes; but you cannot get to it.

Mr. CHUBB: This clause deals with that difficulty. The next clauses deal with the question of what are main and what are minor watercourses. I do not propose to discuss these now; we shall have an opportunity of doing that in committee. The hon. member who represents Townsville (Mr. Macrossan) seems to think that the simplest way of dealing with this matter is to declare all watercourses to be main watercourses, and then define public and private rights in respect to them. That is one way out of the difficulty. Possibly when we come to debate the question we shall be able either to agree to the proposition in the Bill, or to accept his, or some other which will better commend itself to hon. members. I do not think the hon. member for Logan need have the least fear that the 11th clause will interfere with any dams already constructed upon main watercourses. Fair compensation will be made for these. As I understand the clause, it only declares that the soil at the bottom of the watercourse belongs to the Crown. With regard to the 16th clause—to which several hon. members took exception, particularly the hon. member for Cook, Mr. Hill—the first three subsections state what the law is at present, though not all the law on the subject. The common law at present is that the lower lands are bound to receive the natural flow of water from the higher; that the proprietor of the lower land must not obstruct the flow to the prejudice of the proprietor of the upper, that and the proprietor of the higher must do nothing to increase the flow, nor must he prevent the flow from going to his lower neighbour; but, in this clause, he will have power to prevent the flow, subject to such reasonable restrictions as will prevent the sudden flow of water which may do harm to the lower riparian proprietor or proprietors. The next clause deals with diversion, a question on which contrary opinions have been expressed. We have not in this country very many running streams, as in California and America, where they are generally snow-fed, and the water is used for driving mills and other purposes, and it is very necessary there that there should not be a general right of diversion, otherwise the water-power would be absorbed by a few proprietors. It is to be regretted that we have not water-power of that character here, in which case the question of diversion might be one very much more difficult than it is under the Bill, which is intended to operate principally in the western interior, where the flow of water is intermittent, the running is soon over, and the water soon disappears into the bowels of the earth. Instead of diversion it would be more a question of the storage of water during flood-time under such circumstances; and considering that immense quantities of water run away at such times no one would attempt to interfere with its artificial storage.

Mr. NORTON: Sometimes a stream only runs for a few miles.

Mr. CHUBB: I am aware of that, but I cannot stop to describe every instance of the flow of water in the interior. Sometimes it runs four or five miles wide at flood-time, though its ordinary flow may be only a few feet. In discussing a measure of this kind you cannot give every particular instance; but generally speaking there would be no objection to the diversion of water under the circumstances to which I have referred. The other clauses are the machinery for determining disputes, defining which is a main watercourse where there are more channels than one, and dealing with the water authority. Those are necessary if the Bill is to become law,

Someone will have to administer the law, and we cannot do better than have water authorities over water areas. There is no question of principle involved here; it is only one of detail. For my part I am glad to offer my meed of commendation to the Chief Secretary for this Bill. It has certainly gone much beyond anything attempted before on this subject, and it discloses originality, although the hon. gentleman admitted that he took a good deal from other laws. I think we may thank him for bringing in a measure of this kind to enable us even now, though certain rights have been acquired with respect to water—if we are not able to pass into law the proposition contained in the 4th clause—to protect the prospective rights of people with respect to water under this Bill or under some measure of a similar character. I have great pleasure in supporting the second reading.

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

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

ADJOURNMENT.

The PREMIER said: Mr. Speaker,—As it is too late to begin the consideration of the Divisional Boards Bill in committee this evening, I beg to move that this House, at its rising, do adjourn until Tuesday next.

Question put and passed.

The PREMIER said: Mr. Speaker,—I move that this House do now adjourn. On Tuesday we propose to take first the notice of motion with reference to Mr. Justice Cooper; after that the second reading of the Audit Act; and then the consideration of the Divisional Boards Bill in committee.

Question put and passed.

The House adjourned at three minutes to 9 o'clock.