

Queensland



Parliamentary Debates
[Hansard]

Legislative Assembly

TUESDAY, 2 AUGUST 1887

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LEGISLATIVE ASSEMBLY.

Tuesday, 2 August, 1887.

Petitions—Amendment of Australian Joint Stock Bank Act—Establishment of University.—Formal Motions.
—Valuation Bill—third reading.—Motion for Adjournment.—Mr. Justice Cooper's Expenses—Appointment of Joint Select Committee.—Divisional Boards Bill—committee.—Adjournment.

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

PETITIONS.

AMENDMENT OF AUSTRALIAN JOINT STOCK BANK ACT.

Mr. W. BROOKES presented a petition from the directors of the Australian Joint Stock Bank, praying for an amendment of the Australian Joint Stock Bank Act, and accompanied by the necessary certificate required by the order of the House. He moved that the petition be received.

Question put and passed.

ESTABLISHMENT OF UNIVERSITY.

Mr. S. W. BROOKS presented a petition from the Young Men's Christian Association of Brisbane, praying that the necessary steps might be taken for the immediate establishment of a university in Queensland; and moved that it be read.

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

On the motion of Mr. S. W. BROOKS, the petition was received.

FORMAL MOTION.

The following formal motion was agreed to :—

By the COLONIAL TREASURER (Hon. J. R. Dickson)—

That the House will, at its next sitting, resolve itself into a Committee of the Whole to consider the desirableness of introducing a Bill to make better provision for regulating the fisheries in Queensland waters.

VALUATION BILL.

THIRD READING.

On the motion of the PREMIER (Hon. Sir S. W. Griffith), 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.

MOTION FOR ADJOURNMENT.

The Hon. J. M. MACROSSAN said: Mr. Speaker,—I have a few words to say about a grievance I think it right to bring before the House, and I will put myself in order by moving the adjournment of the House when I have concluded. It is a grievance from the miners at Croydon. I daresay most members of the House, who are at all acquainted with mining matters, know that miners are entitled to be allowed assessors on trial of any case in which they are interested, the same as jurymen are allowed in the trial of civil and criminal cases. I shall read a letter which has been sent to me from Croydon, and which, I am sorry to say, I was not able to bring before the House sooner. The letter is as follows :—

“DEAR SIR,

“For your information I beg respectfully to enclose for your perusal cuttings from a newspaper in a mining case, but more particularly to bring under your notice the fact that the miners are not allowed assessors.”

The PREMIER: What is the date of the letter?

The Hon. J. M. MACROSSAN: The letter is dated 20th April, and the writer goes on to say :—

“No appeal has been made in the case mentioned, owing to the expense of taking witnesses to Normanton. I also send a copy of Warden Macarthur's letter, who, in one of his reports to the Government, says he knows nothing of his duties in mining.

“Had the warden heard the evidence for the defence the case would assume a different aspect, as in cross-examination of three wages-men I would have elicited the fact that, on the Saturday previous to the Monday when exemption was obtained, these men were working upon golden quartz in the shaft and knew nothing that the claim was to be exempted; in fact, they went to their work in the usual way on the Monday morning, and were told that the claim was exempted from work.

“This case has caused a lot of excitement amongst the miners; the court-house was crowded to excess, and their breath was taken away when I repeated my request for assessors. The registrar was intoxicated during the morning and would not write down the evidence as given. The evidence, even now, if produced as written down, will show dozens of errors.

“Mortimore and myself did not apply for this ground purposely to obtain it in the ‘jumping’ sense—it was myself who went into the matter as a business man—and it is our interest to see that in such rich claims (18 to 22 oz.)—

I suppose that means per ton—

“chiefly surface ground, that all the men possible, according to the Act, should be constantly employed.

“Previous to this they had obtained crushings from ore sent to Georgetown, which had given them thousands of pounds. Other claims on the line were working at the time they obtained exemption—and accumulation of water in their workings flooded out and prevented work in other claims, and especially in No. 3 block.

"That the warden connived with the defendants is manifest by one of his questions to a witness for the plaintiffs—No. 3:—

"Did you examine every tree on the claim for the notice of application for exemption?" The most simple question that was ever put by a warden to a witness.

"I have shown this letter to several of your old friends, and they thoroughly approve of it. The population is now about 2,000, and as the weather is clearing up, looks, by the way they are pouring in, to be doubled in less than two months."

Mr. LUMLEY HILL: What is that signed?

The Hon. J. M. MACROSSAN: "F. W. Merry." The following is a copy of a notice sent to Merry and party when they were refused assessors:—

"Warden's Office,
Croydon, 25th February, 1887.

"To MESSRS. MERRY AND PARTY.

"Gentlemen,

"I have to acknowledge receipt of your letter demanding assessors in the case pending between yourselves and Clough and party.

"I have to inform you that, in accordance with instructions from my department, in future no assessors will be called in any case.

"Yours faithfully,

"P. MACANTHUR,

"Warden."

I daresay it may be gathered from the letter which I have just read that this was a case in which assessors should have been called if ever they should be called, because it was a case in which the warden himself, even if an experienced officer, would have asked both plaintiff and defendant to nominate assessors, as it was one in which his decision would rest upon whether the stone was payable or not, and of course miners are always the best judges of that—much better judges than even well-experienced wardens. But it seems that in this particular instance the warden sent a telegram to the Mines Department, asking whether he should allow assessors or not, and the Mines Department communicated with the Attorney-General, asking a specific question, which, I believe, the hon. gentleman answered fairly. But the question submitted to him should not have been specific; it should have been a general one. The question put to the hon. gentleman was, I believe, "Can assessors be appointed or not under the 31st section of the Gold Fields Act on a goldfield where a warden's court has not been proclaimed?" The Attorney-General answered very fairly that they could not. Of course assessors could not be called for under that section, because no warden's court had been proclaimed, and that section and succeeding sections to the number of twelve or thirteen deal exclusively with the appointment of assessors, the manner in which they are appointed, the fees they shall receive, and so forth, on a field where a warden's court has been proclaimed. But there is another section under which assessors are appointed on every goldfield in the colony when required, and this warden who was lately appointed was so utterly ignorant of the duty of a warden that he did not know that section was in existence, or how it came into operation. In fact, the poor gentleman himself afterwards, according to my informant, actually said he wished to be removed—he was so inexperienced in mining duties. I ask hon. members of this House, and I ask the Government, if it is fair that the miners of the country, who do so much for it, should be placed under the power of ignorant and incompetent administrators? I do not blame anyone in particular besides the Government. I blame the Government for making such appointments. There was a time in Queensland, twenty years ago,

when the appointment of wardens was very bad—when any man who could use a little influence with the Government of the day, no matter what his qualifications, were, or rather his want of qualifications, could be appointed warden on a goldfield; and it seems that we are drifting back into that state of things again when we ought to have got out of it. I have never in all my experience known of such ignorance as was exhibited by that warden—except perhaps in the very early days of New Zealand, and there they soon improved matters. But here, after twenty or twenty-five years' experience in gold-mining, we are actually going back to a very primitive condition of affairs as far as wardens are concerned. And this is not the only case of a bad appointment of warden. As far as my experience goes, from communication with the different goldfields, I find that not only in the case of wardens, but also in the case of mining registrars, incompetent persons have been appointed. We know how important the duties of a warden are, and we know that sometimes he has to adjudicate upon property of immense value. I may instance only one particular case. All hon. members are acquainted with Mount Morgan. Supposing a warden is called upon to adjudicate on a property like that, why he actually has the powers of a Supreme Court judge! And there are many cases which, though not quite so rich in gold as Mount Morgan, nevertheless involve property of great value, where wardens are called upon to adjudicate. We should therefore appoint the best men we can to such positions—men who, in addition to other qualifications which they ought to possess, should have some little legal training. As I said at the outset, I have no desire to throw blame on anybody, but I throw the blame on the system of appointments to such positions, and I hope that the Government will see that better appointments are made in future, and that they will also see that this gentleman does not go back to that goldfield or to any other in the colony. I believe that he is on leave of absence at the present time, but that leave of absence is no guarantee that he will not be sent back there or appointed to some other goldfield where he can do as much harm as he did at Croydon. I do not think it is too much to ask the Government to send the best man they have in the service to Croydon. That field is a long way from the centre of government, and the miners may suffer a great deal of hardship before their wants are known. I believe that the people of Brisbane are beginning to take an interest in mining, and that many of them are interested in Croydon, so that all members of the House are as interested in having able and competent wardens appointed on the goldfields as the miners at Croydon. I hope the Government will do what they ought to do not only with respect to this appointment, but with respect also to other appointments which I shall not name. I beg to move the adjournment of the House.

The PREMIER said: Mr. Speaker,—I think the hon. member is rather hard on the gentleman who acted as warden at Croydon. That gentleman had been in the Government service for some time, and had shown that he was possessed of considerable ability. When it was first determined to send a warden to Croydon it was not anticipated that the field would so soon come into such importance, and it was thought a very fair opportunity to give a young rising member of the Civil Service a chance of promotion. The Government had no reason to anticipate that he would not be able to perform his duties satisfactorily. Everybody must begin.

Mr. MOREHEAD: That is a truism.

The PREMIER: There must be young wardens sometimes. Of course it is a truism. When you want a warden for a new goldfield you have to send a man you consider competent to perform the duties. You may make a mistake, of course, but I should be sorry to express an opinion adverse to Mr. Macarthur's competency without further information.

The HON. J. M. MACROSSAN: He has done so himself.

The PREMIER: I was not aware of that till the hon. member said so. It would be very unfortunate that a field like Croydon should be in charge of an incompetent or inexperienced warden. The particular matter the hon. member called attention to was the refusal of the warden to appoint assessors; and I think there is no doubt that the advice given by the Attorney-General was correct. It is unfortunate that there was not a warden's court at Croydon at the time; but it is clear that assessors could not be appointed in the absence of a warden's court.

The HON. J. M. MACROSSAN: Except under the 47th section. That is the only section under which they can be appointed when there is no warden's court.

The PREMIER: I do not think so. No assessors can be appointed unless there is a warden's court.

The HON. J. M. MACROSSAN: It is done daily.

The PREMIER: It does not follow that it is done rightly. Perhaps that is an instance of mistakes being made by experienced wardens. I am not familiar with the details of the administration of the Mines Department, and my colleague the Minister for Mines is unfortunately not here; but I presume that Croydon is now a place where a warden's court is held.

The HON. J. M. MACROSSAN: Since May.

The PREMIER: And a warden of considerable experience is there now. I agree that to a place like Croydon the best man should be sent; and hon. members are no doubt aware that one of the most experienced police magistrates is now on his way to relieve the warden as to his magisterial duties. It is unfortunate that an experienced warden was not sent there before, but I am sure that every member of the Government is impressed with the importance of securing competent men for the administration of the law on goldfields.

Mr. LUMLEY HILL said: Mr. Speaker,—I do not think it worth while taking up much time discussing this particular case. We have only heard one version of the story, and it is an old maxim that one story holds good till another is told. I do not know either the warden or Mr. Merry; but Mr. Macarthur appears to have coincided with the opinion of Mr. Merry that he was not fit for the position of warden. I agree with the Chief Secretary that a warden must begin some time, and that Croydon was a new goldfield when Mr. Macarthur was sent there, and nobody had any idea that it would ever become so important as it has fortunately become. The only good result from the discussion will be the consideration of the question of the appointment of assessors when there is no warden's court. If the law is as the Premier reads it, and does not allow them to be appointed, I think it should be altered in that direction so as to allow them to be appointed even before a district is proclaimed within the jurisdiction of a warden's court, because, as the hon. member for Townsville says, the diggers themselves are very often more competent to form an opinion than any warden. They are practical men, and can tell from their knowledge and observation what claims are, and whether they have a right to exemption

or not. I do not take it for granted because men were at work on payable gold-bearing quartz that they were not entitled to exemption. They might legitimately have required exemption to put up pumping or crushing machinery. We have only a one-sided story before us, and it would be very wrong to decide hastily upon that. As to the remarks of the hon. member for Townsville about ignorant and incompetent men, I meet them in every walk of life—I may say that I have met some in this House. And there are also corrupt ones. Of the two I prefer the ignorant and incompetent to the corrupt. As for going back twenty years for bad appointments, there is not the slightest necessity for that. Bad appointments have been made in every department, perhaps, of the Civil Service within a good deal less than twenty years. I hope some decision will be come to with regard to the matter of assessors, and giving facilities for their appointment as soon as ever a goldfield becomes a goldfield at all. As soon as there is work for Government officials the miners should have a right to appoint assessors for the purpose of determining whether a claim is entitled to exemption or not.

Mr. MOREHEAD said: Mr. Speaker,—I think that the hon. gentleman who moved the adjournment of the House has made out a good case against Mr. Macarthur, and one I think partly agreed to by the head of the Government, who shelters himself in a certain way by regretting the absence of one of his colleagues. We all regret that, and we all hope we shall soon see some responsible Minister occupying the position of Minister for Mines, whoever he may be, sitting in his place in this House. I have refrained up to now, but I think something should be said with regard to the continued absence of the Minister for Mines. No one regrets personally more than I do the cause of the hon. gentleman's absence. I am certain no one regrets it more than the hon. gentleman at the head of the Government, because I am perfectly certain that he cannot get amongst his numerous followers as competent a colleague as the hon. gentleman who occupies that position; but the Opposition cannot always shut their eyes to the fact that the hon. gentleman is absent from his place, and the sooner some arrangement is made to fill that important office, either by the Minister for Works or some other gentleman, the better. With regard to the remarks of the hon. member for Townsville, I would say that the defence set up by the Premier is hardly a fair one. He does not deny, as far as his words mean anything, the incompetence of the late warden at Croydon. As I understand his argument, it is this, "Croydon is only a Northern goldfield; let us try an experiment with somebody. He is a young man full of promise; let us see how he will get on at Croydon." Further, he led this House to believe that Croydon was quite a new field.

The PREMIER: When he was appointed.

Mr. MOREHEAD: I deny that it was a new field then. He now modifies his statement by saying that it was new when he was appointed. Surely if it was a new field then the Government had plenty of time to discover what manner of man he was and of what mettle during the time the field was developing. I do not see why a Northern goldfield or a northern part of the colony—opposed as I am to separation, and speaking in the interest of non-separation—I do not see why its interests should be experimented upon by sending there young promising officers of the Civil Service. Let them try nearer home instead of sending them to a field like Croydon, to which one of the best men should have been sent for more reasons than one.

A new goldfield, especially when there has been a rush, as was the case at Croydon, should be governed, so to speak, by an able and experienced man. It is not a place for experimenting at all. If it had been some paltry rush, one could imagine a young man being sent to look after it, but even then I do not think it could be justified. I cannot agree with the hon. member for Cook, Mr. Hill, that we have only heard one side of the question—that we have only heard the statement of the hon. member for Townsville with regard to it. We have heard the hon. the Premier's statement. We have heard him admit to-night that this Mr. Macarthur, about whom I know nothing beyond what has been said to-night, was young and inexperienced, although very promising. I do trust that what has fallen from the hon. member for Townsville will receive due consideration at the Premier's hands, because there is no member of this House who has a more intimate knowledge of the mining community and the administration of the mining law than that hon. gentleman.

Mr. MELLOR said: Mr. Speaker,—Referring to what has fallen from the leader of the Opposition, I should like to see in this House a Minister in charge of the mining industry of Queensland. I think myself that it is becoming of sufficient importance to deserve a Minister on its own account. I was very sorry to hear the remarks which have been made in reference to the appointment of a warden to such an important new field as Croydon. I think that where the Government have made a mistake was in appointing a young man without experience. If there was not really a warden to send there, there were plenty of men in the service as mining registrars who thoroughly understood the business of wardens, and who would have been the proper men to send to places of that kind. Those men have performed the duties almost of wardens in many places in the colony, and it would have been very much better to send one of them; for a man without experience may do a great deal of harm on a new goldfield—or on any goldfield. I trust that now the matter has been brought forward it will receive due attention.

Mr. HAMILTON said: Mr. Speaker,—The Premier has attempted to justify the appointment of Mr. Macarthur on the grounds that he was a very promising young man, and that it was not anticipated at the time he was appointed that the field would become of such importance. Whatever his capacity may have been, he had never had the opportunity of showing it on any goldfield, and I certainly think it unfair that an inexperienced man should be allowed to try his 'prentice hand on an important and valuable industry. Seeing that the warden on a goldfield has almost supreme power, I think he should be a man with a certain training: he should not only have a legal training, but he should serve in some subservient capacity on a goldfield, and show his fitness, before he is entrusted with such a responsible post as that of warden. As to the excuse that it was not anticipated that the field would become so important, I have only to say that it was known to be an important field at the time that Warden Macarthur was appointed, and before he was appointed. Before Warden Samwell was shifted, the importance of that field was brought under the eyes of the public of Queensland. Of course the Premier supports the appointment of Mr. Macarthur; and with regard to that, I do not think the Minister for Mines should be blamed, because I believe the appointment was made by the Premier. It must not be forgotten that Mr. Macarthur himself has

actually expressed his own opinion of his own incompetency. The Premier attempted to justify his action with regard to assessors by stating that assessors cannot be appointed unless they are summoned. That is so under one clause, but clause 47 distinctly provides for the appointment of assessors from the bystanders. It states:—

"It shall nevertheless be lawful for the warden upon oral or written complaint of any party, and with the consent of both parties, immediately on the making of such complaint, or at any time agreed on by the parties, and at any place within the goldfield, to investigate the matter of such complaint. . . . Every such case may be heard before the warden and assessors, who shall be selected by ballot by the warden, who shall prepare a list of ten, or as near ten, of indifferent bystanders, as the number present will permit, and shall then select by ballot two assessors, who shall be the assessors to hear the case with the warden."

That entirely disposes of the statement of the Premier that they cannot be selected without summoning. I believe that Mr. Macarthur is a good man—he is a good police magistrate—but certainly he could not be expected to fulfil the duties of warden. No doubt he could not refuse the appointment when it was put upon him. But this is not the only complaint: there are numberless complaints coming down from Croydon with regard to the administration of the rules by incompetent wardens there. I heard of a case the other day; the name of the claim was the "Bobby Dazzler," a very rich claim indeed. Four hard-working miners discovered this claim, which is worth thousands of pounds; they have been offered £7,000 or £8,000 for it if I recollect rightly. It appears, however, that two men have pegged off four men's ground. Now, according to the regulations one man can peg off as many claims as he chooses, but the judge has decided—and the ruling has been supported by the Full Court—that one man cannot peg off more than one man's ground; but when the ground is registered all such faults are cured. Now, I have been informed by the prospector of the field that the ground had actually been registered before it was jumped. Had the ground been jumped directly after those two men pegged out four men's ground, probably by the judge's ruling they would be liable to lose it; but as a matter of fact it was registered before it was jumped. According to the regulations, after ground has been pegged off those who have taken it up can apply to have the claim registered; and six days are allowed to elapse for any persons to offer any objections to the registration of the claim. If no objections are lodged, then they are considered the owners, and are registered as the owners of the claim, that registration curing all previous faults. I hear two men were registered for four men's ground, and after that registration had taken place their ground was jumped. Any person acquainted with the mining law would look upon such a thing as a ludicrous absurdity. Then again, I have been informed by letters from miners up there that prospecting claims have been jumped on the ground that a prospecting claim must be worked full-handed. Now, any person acquainted with the rules knows that that is an absurdity. The rules state that a reward claim is given for the discovery of gold in apparently payable quantities. In addition to the reward claim, persons can have ordinary claims. For instance, if four men discover gold in apparently payable quantities the commissioner will give them a reward claim, and then those four men are entitled to take up eight men's ground, and attach it to the prospecting claim, and the whole is one claim until payable gold is discovered; and when it is discovered the full complement of men must be put upon it. That is distinctly laid down

in the regulations, and the commissioners have decided that directly a prospecting claim is granted and the ordinary claim taken up it must be worked full-handed. There is no excuse for appointing incompetent men as wardens at the present time, especially as we have such men as Mr. Cribb and Mr. Uhr and many others, as well as competent wardens who have given satisfaction in every respect.

The COLONIAL TREASURER said: Mr. Speaker,—In the absence of my hon. colleague the Minister for Mines, I cannot allow the remark of the last speaker to pass unnoticed—namely, that the appointment of Mr. Macarthur was entirely the act of the Premier.

Mr. HAMILTON: I said I had reason to believe so.

The COLONIAL TREASURER: The Premier had no more to do with the appointment than the hon. member. The Premier was absent from the colony, and therefore is entirely exonerated from any blame, if there is blame to be attached to anyone, which I do not admit. My hon. colleague, the Minister for Works, consulted his colleagues, and he was most anxious to secure the best man. He was also anxious to give preference to the junior members of the service, which I consider a highly creditable and proper feeling, and it was with that desire he selected a gentleman who had been several years in the North, and had gained large experience. He has been sub-collector of Customs and police magistrate at Burketown, and was one of the most promising men in the Customs Department, and, moreover, his selection was made by the whole Cabinet.

Mr. HAMILTON: Where was the Premier?

The COLONIAL TREASURER: He was either on his way to the colony or in England.

The Hon. J. M. MACROSSAN: Last October!

The COLONIAL TREASURER: Anyway, Mr. Macarthur was appointed and was considered to be a man who would give unqualified satisfaction. He was a rising man in the Civil Service and had satisfactorily performed the duties which pertained to the various offices he had held in the service.

Mr. HAMILTON: He says he is incompetent.

The COLONIAL TREASURER: He did not find the position congenial to him, and I was surprised to learn that such was the case. I do not say that he discharged the duties of warden satisfactorily, but the Government must be acquitted of having any intention to select an incompetent person to discharge such responsible duties, and they selected Mr. Macarthur because they considered he was a man who would discharge the duties satisfactorily on a young goldfield like Croydon, and that as the field developed so would his experience develop. Mr. Macarthur has acted in several capacities throughout the service, and I am not aware that it requires a man of transcendent abilities to discharge the duties of gold warden. That Mr. Macarthur has been unable to perform the duties attached to the office is a matter for regret, but neither the Government nor anyone else could foresee that.

The Hon. J. M. MACROSSAN said: Mr. Speaker,—I am extremely sorry that the Colonial Treasurer should, in his zeal and desire to defend the Premier, get up and make such an incorrect statement. I do not know who made the appointment, but I know it was made when the Premier was in this colony, and doing duty in this House—that he was neither on his way to England nor returning. How

the Treasurer could make such a statement I do not know. Mr. Macarthur was appointed last October. Surely the Premier did not leave the colony a month before the last session ended? Now, as I said before, I do not blame anyone—the Premier or anyone else. I blame the system of appointment, and say that there should be as much care and discretion exercised in the appointment of wardens as in the appointment of judges. Their duties are quite as onerous, and as much depends upon them as upon the judges. It is the system I blame, and I could give cases if I chose to show that the system has been getting worse year by year for some time. Competent wardens have been put out of their places through political influence and on personal grounds, and have been sent out west, whilst new chums have taken their places in the goldfields.

The PREMIER: Where?

The Hon. J. M. MACROSSAN: I am not going to mention names in this House, but will tell the Premier privately, if he wishes. I can give the names, and I can also name mining registrars who are as competent to perform the duties of warden as any warden in Queensland, and they are passed over in favour of new chums. I say the system is bad, and I hope the Premier, now that his attention has been drawn to it, will take steps to reform it, and do what I think he ought to do: select wardens in the same manner as he would select district court judges, at all events. I beg to withdraw the motion.

Motion, by leave, withdrawn.

MR. JUSTICE COOPER'S EXPENSES.

APPOINTMENT OF JOINT SELECT COMMITTEE.

The PREMIER, in moving—

1. That the Legislative Council be invited to join this House in the constitution of a Joint Select Committee to consider and report upon the several matters disclosed by the papers and other correspondence relating to the travelling expenses of Mr. Justice Cooper, presented to both Houses of Parliament on the 19th July.

2. That this House propose that the number to members to serve on such committee be ten, and that six members do form a quorum thereof.

3. That the following members of this House be appointed to serve on such committee:—Mr. Morehead, Mr. Aland, Mr. Lumley Hill, Mr. Nelson, and the mover.

—said: Mr. Speaker,—Hon. members have no doubt seen the correspondence relating to the travelling expenses of Mr. Justice Cooper, laid on the table of the House some days ago. The matter referred to has engaged the attention of this House in Committee of Supply on more than one occasion, and public attention has been directed to it by the insertion by that learned judge in the *Brisbane Courier*, of the correspondence and by what is reported to have taken place at the last Townsville circuit court, where he is reported to have said publicly that unless certain things were done—unless he received an assurance that his travelling expenses would be met—he would adjourn the court and discharge the prisoners. Well, sir, he did not do that—fortunately, I think—but the matter, having gone so far, I think it is right that this House—that Parliament should take some notice of the matter. The motion that I am about to make is for the appointment of a joint committee of both Houses. I do not think it is desirable to go into details at this stage. I will only point out in very few words how matters stand. The first letter in the correspondence is a letter written by me to Mr. Justice Cooper on the 28th October, 1884, in which I express what I understand to be the rule in regard to the travelling expenses of the judges, in these words:—

“Parliament has always desired that their honours should travel in such a manner as to be con-

sistent with the dignity of their office, and conducive to the avoidance of any discomfort which might interfere with the performance of their high and responsible duties, and has hitherto prescribed no limit to the amount of the expenditure, in full confidence that the high sense of duty of the judges themselves would prevent any undue burden being imposed upon the revenue on their account. Parliament is, however, of course, entitled to determine what amount of money shall be appropriated for this as well as other purposes, and the Government are charged with the responsibility of recommending a proper and sufficient sum."

I think, Mr. Speaker, that this very correctly lays down the rule, the only rule, that this House or any Parliament can adopt. Mr. Justice Cooper, so far as I understand the matter, lays down the rule that he is entitled to draw cheques for whatever amount he pleases, and that the Government and the Parliament have no right to criticise that expenditure; their sole duty is to honour the cheques which he draws. This, of course, cannot be accepted by any Parliament. Parliament must be supreme in all matters of expenditure. The matter, however, having gone on, and something in the nature of a scandal having arisen, I thought it right that the question should be definitely settled. The Government might, of course, make a proposal to Parliament on their own responsibility in more ways than one. They might propose that the sum to be appropriated for the judge's travelling expenses should be a certain fixed amount, and it might be distinctly stated that under no circumstances would that amount be exceeded. Then, of course, if Mr. Justice Cooper did not accept the position Parliament could deal with him afterwards. Or the Government might propose to Parliament to make a fixed daily allowance for the judge's travelling expenses. Either of these things might be done without the assistance of a committee. But considering that the judges are officers who can only be dealt with by Parliament—who can only be removed from their offices on an address from both Houses of Parliament—it appeared to my mind that Parliament might fairly be invited to take into their consideration anything in the nature of a scandal arising in the administration of justice. I think it is very desirable that a definite rule should be laid down; and if the question is carefully considered by a committee of both Houses of Parliament, and a definite rule is laid down, I am quite sure that whether it is recommended that effect be given to it by a special statute, or in whatever way, it will be very satisfactory. There may be additional information to be acquired, and if so we shall be able to obtain it. Under the circumstances the Government feel bound to take some notice of what has happened, and I think this is the best manner in which the question can be raised and settled. As I have said, I do not intend to enter into the details of the correspondence. I am not going either to defend myself or to attack Mr. Justice Cooper, and what has been said by that gentleman against myself I can afford to pass over. A joint committee of ten members would be a very satisfactory committee of inquiry, and hon. members will admit, I think, that the members chosen from this Assembly are such as will satisfy all parts of the House. I ask for the appointment of the committee without any preconceived idea as to the precise nature of the report that should be brought up. I think the matter should be entirely open, and it is not desirable to enter into the details of it now. All I am concerned with now is to satisfy the House that it is desirable, and indeed necessary, that Parliament should take notice of the matter in the most suitable manner. I therefore beg to move the motion standing in my name.

Mr. MOREHEAD said: Mr. Speaker,—I rise first to a point of order, or rather to raise a point of order, which I hope you will give your ruling upon, and that is as to the competence of the Premier to make such a motion. There is no precedent, so far as I can find, for any such motion in the Parliaments of either Great Britain or any of the colonies. I find, sir, that the law is laid down very strictly in regard to this matter. I had thought that when the Premier brought forward this motion he would at any rate have acted according to precedent, because if the Premier is anything he is a lawyer. If he had looked up the precedents he would have found that the only case under which such committee can be appointed—I am talking about a joint committee of both Houses—is when a *prima facie* case has been made out for the removal of a judge. That case has not only not been made out, but has not been attempted to be made out, nor is it proposed to be made out. Now, sir, the English precedents are very clear in this matter. I will go back as far as 1834, when Mr. Daniel O'Connell brought before the House of Commons a complaint—I am quoting from Todd's "Parliamentary Government in England":—

"On February 13, 1834, Mr. Daniel O'Connell brought before the House of Commons a complaint against Sir William Smith, one of the barons of the Court of Exchequer in Ireland, for neglect of duty as a judge, and for the introduction of political topics in his charges to grand juries. In proof of these accusations he quoted from various returns on the table of the House, and from certain of the judge's charges; and concluded by moving that a select committee be appointed to inquire into the conduct of Mr. Baron Smith with respect to these accusations, which was agreed to. On February 21, however, it was represented to the House that a *prima facie* case, sufficient to justify the removal of Baron Smith from the Bench, by a proceeding under the statute, had not been made out; and that Parliament had no constitutional right to institute an inquiry into the conduct of a judge with any other view than that of addressing the Crown, under the provisions of the statute, for his removal, else 'would the independence of the judicial bench be a mockery,' and the Act of 1 Geo. I. no better than waste paper.' It was accordingly moved that the order for the appointment of the committee be discharged; which, after a long debate, was concurred in by the House."

That is to say, the House, finding they had made a mistake, rescinded an order they had previously made. But we shall find that there is something more laid down also by this authority as regards charges brought against a judge of the Supreme Court. The first portion of this paragraph deals with the case of Sir William Smith, to which I have already referred; and goes on:—

"The point established upon this occasion was that the House will not"—

"Will not," Mr. Speaker; the words are very strong—

"will not sanction the nomination of a select committee to inquire into the conduct of a judge, unless a *prima facie* case—sufficient if substantiated to justify his removal from the bench, pursuant to an address to the Crown under the statute—is made out by the mover for the appointment of such committee."

That, sir, must precede the appointment of a committee, and it has not preceded it in this case. That is the law as laid down here, as you will find, sir, on referring to the precedents of the Imperial Parliament.

"On 21st February, 1843, Mr. Thomas Duncombe called attention in the House of Commons to certain objectionable expressions in the charges of Lord Abinger, Chief Baron of the Court of Exchequer."

I need not weary you, sir, or the House with portions of the debate. It is open to members of the House to see that I am not giving garbled extracts by reading the whole matter for them—

selves. At any rate the Attorney-General—Sir F. Pollock—I believe, a lawyer of some weight in the legal profession—says this authority:—

“Resisted this motion, and defended the conduct of the judge. He did not deny the proper vocation of the House of Commons for such inquiries in general, but considered the present complaint to be wholly unsubstantiated. It is in fact an admitted principle that no government should support a motion.”—

Not support a motion even, let alone initiate it—
“support a motion for an inquiry into the conduct of a judge unless they have first made an investigation, and are prepared to say that they think it a fit case to be followed up by an address for his dismissal.”

That, sir, is the opinion of Sir F. Pollock. I will next quote the opinion of Lord John Russell, who—

“Objected that Lord Abinger had ‘spoken both as a politician and a lawyer,’ when he should have spoken only as a judge. Nevertheless, he regarded the independence of the judges to be so sacred that nothing but the most imperious necessity should induce the House to adopt a course that might tend to weaken their standing or endanger their authority.”

The next authority I shall quote is that of one well known to many members of this House—Sir James Graham—a distinguished English statesman:—

“Sir James Graham did not object to questions of this nature being asked in the House; but yet he considered it was due to the cause of justice itself to defend the judges of the land, unless we shall be satisfied that their conduct has been corrupt, and their motives dishonest.”

In asking you, sir, to rule upon this point of order I would further call your attention to the last, absolutely the last, paragraph in this book, which says:—

“If hereafter it should unhappily be necessary for the Legislative Chambers of any British colony to assume the responsibility of addressing the Crown to remove an unworthy occupant of the judicial bench it may be hoped that the proceedings will be conducted with the solemnity, impartiality, and respect for constitutional rights, which ought always to attend upon the exercise of such important functions by a legislative body.”

I ask your ruling, sir, whether, according to precedent, a committee of this House can be appointed. I am now dealing with the question of the appointment of a committee of ourselves. The question of the appointment of a joint committee I shall deal with afterwards if your ruling in this case is against me.

The PREMIER: Rising to the point of order that has been raised—because I think it only right that you, sir, should receive every assistance from members on both sides of the House upon it—I have not heard that any of the cases quoted by my hon. friend opposite deny the competency of this House to appoint a committee. They are expressions of opinion of very great weight as to the propriety of appointing a committee to inquire into the conduct of a judge, and I cannot say that I dissent in any particular from anything laid down in those cases. The questions that were raised there were as to the conduct of the judge in administering justice, by being partial, introducing politics on the bench, and things of that kind—things which, if proved, could only be followed by his removal from the bench. It would be extremely undesirable to subject the conduct of judges to the scrutiny of Parliament unless that course was intended to be followed up by some substantial action. But it appears to me that these precedents are in no way applicable to the proposal I now make to the House. The question that was raised is this, briefly: Parliament at the present time asserts its right to control the travelling expenses of the judges; one of the judges denies that right, and before we can deal with the matter it is only right that it should be investigated. Let us inquire into it, and deter-

mine whether a judge is to have any amount of travelling expenses he likes, or whether it is the function of Parliament to determine how much he shall have. That is an entirely different question. I quite agree that any matter to be made the foundation for the removal of a judge ought not to be brought up except with the object I have indicated. I think the hon. member rightly understood me; I did not intend to indicate that there was anything here to justify any action of that kind. The matter not being one tending to the removal of a judge, I entirely fail to see that this House is not entitled to inquire what is the convenient or proper rule to adopt with respect to the travelling expenses of judges. Can anybody say it is beyond the competency of Parliament to determine what shall be their expenses? I am curious to hear what the hon. member has to say on that point. And if it is competent for Parliament to determine what shall be the amount of travelling expenses, surely it is within the province of Parliament to examine into the matter before we do it. That is the object with which my motion is brought forward.

Mr. LUMLEY HILL said: Mr. Speaker,—Rising to speak to the point of order, I may say that I do not set myself up to be an expert in common law, or in parliamentary law, or in constitutional law, more especially when it deals with this matter; but I do think that no one can deny that this House has the right to exercise due supervision over the law and lawyers. I believe, too, that if it has been found, or if the idea has occurred to anyone that undue expenditure has been made in the conduct of the law, Parliament has the right to curtail that—to put a check upon it. But, at the same time, I say it is not necessary to appoint a select committee in order to curtail that expenditure or to put any limit to it. Let the Government bring in a Bill limiting the amount of expenditure to be incurred by each judge on circuit, and then I shall be in a position to support them. If it comes to the appointment of a committee, I have not very much faith in those special committees. Arguments *pro* and *con*. could be thrashed out just as well in committee of the whole House, and no doubt they would be when the report of the select committee was brought up, and the thing would be settled and done with at once and for ever. I can quite conceive the position that the judge in this case might take up. He may say—“I accepted the appointment with a certain fixed salary, and with an unlimited amount of expenditure. That is the condition on which I accepted the position—that I was to have unlimited credit for my expenditure; and suddenly I find my credit cut off by an authority I do not recognise.” I can quite conceive that as a logical position the judge might take up. Since he accepted the position no Act of Parliament had been passed curtailing that, and suddenly he receives instructions to curtail perhaps from a political opponent—for it is a fact, whether fortunate or unfortunate, that most of our judges are drawn from the ranks of leading politicians.

An HONOURABLE MEMBER: Unfortunate.

Mr. LUMLEY HILL: I leave that to the House to say. That, however, is the fact, and I can quite understand that friction might easily arise between any judge and the Ministry of the day or some subsequent Ministry. I think that could be avoided by the passing of a statute to fix or limit the travelling expenses of each judge on each circuit. Then if a judge did not like to accept the office he could leave it alone, or if he did not like the law to be brought to bear upon him after he had been appointed he could have, at all events, an

opportunity of resigning, if he could not adapt himself to circumstances. I hope myself that the committee will not be appointed. I agree with a great deal that has been said by the hon. leader of the Opposition in that respect, that the motion should be followed up by a notice of removal or dismissal; but as I do not believe that anything of the kind is intended, I do not see what is the use of the committee.

Mr. CHUBB said: Mr. Speaker,—Speaking to the point of order, I may say that the question raised by the hon. member for Balonne seems to me to rest upon this, whether the words of the motion do not refer to the conduct of the judge. Because if they do refer to the conduct of the judge, then I take it that the constitutional axioms which have been quoted by the hon. gentleman on this side come in. He quoted from a very valuable work, an acknowledged authority, which lays it down as an axiom that it is improper for Parliament to entertain a motion in regard to a judge which attacks his conduct, unless it is to be followed by a substantive motion or proceedings.

Mr. MOREHEAD: The hon. member is wrong in interpreting me in that way. I said the Government must make out a *prima facie* case for his dismissal before the motion is considered.

Mr. CHUBB: The hon. gentleman spoke before I finished my sentence; I would have added that the Government would have to make out such a case as would justify the appointment of a committee and the undertaking of subsequent proceedings. The hon. gentleman just gave an authority which I will not again refer to. The words of this motion are—

“That the Legislative Council be invited to join this House in the constitution of a Joint Select Committee to consider and report upon the several matters disclosed by the papers,” &c.

The Premier told us that the object of this committee is simply to try and lay down some rule in regard to the amount which Justice Cooper shall be provided by Parliament for his expenses. I take it that the wording of this resolution goes further than that, because the Legislative Council are invited to report upon “several matters.”

Mr. MOREHEAD: So is this House.

Mr. CHUBB: The motion does not say what those matters are. I have read the correspondence, and it seems to tend to something more than a mere question of actual travelling expenses. Therefore, I take it, the simple question is, whether the words of the motion cannot be capable of bearing that import. If they do, I think the objection raised by the hon. gentleman has much force. Now, sir, in South Australia—which is the only colonial instance I have been able to find dealing with the question of a judge—

Mr. MOREHEAD: Mr. Justice Boothby?

Mr. CHUBB: Yes. The proceedings are very long. I have not read them all. They were reported in the South Australian *Hansard* of 1861, and subsequent proceedings in the *Hansard* of 1866-7. On two occasions proceedings were taken against that judge. In the first case, in each House, an independent resolution was moved by the Government for the appointment of a select committee. There were two select committees, one from each House, and the object was to inquire into the “recent judicial decisions and conduct of His Honour Mr. Justice Boothby, and to report upon the steps advisable to be taken in reference thereto.” That motion was made in both Houses, and supported by speeches from the movers and others, which from their import necessarily show that subsequent proceedings would be taken.

A separate committee from each House was appointed, which sat, and reports were brought up, and on the reports of those committees an address was carried in each House, supporting the removal of the judge. Those proceedings, Mr. Speaker, were not carried to a conclusion. They lapsed in some way or another, or were abandoned. Later on, in 1866, the matter was taken up again, and upon that occasion the proceedings were these: There was no motion for a select committee; but a member of the Government in each House brought forward an address—moved an address to Her Majesty—for the removal of the judge, and in the address a statement was made against the judge of the matters charged against him. That address was carried in both Houses, and what became of the matter afterwards I have not been able to find out.

The PREMIER: Mr. Justice Boothby died in the meantime.

Mr. CHUBB: Yes; and so solved the difficulty.

Mr. MOREHEAD: I hope Mr. Justice Cooper will not die.

Mr. CHUBB: That is the only instance I can cite here which can have any bearing upon the present matter, and I repeat that, on the axiom that a judge is part of the Executive, it is not right that the Legislative Assembly should entertain any motion having reference to the conduct of a judge, unless it is proposed to bring forward a *prima facie* case, and follow that up by a motion for his removal. I may go further than that, and say that it is your duty, Mr. Speaker, to stop insulting remarks made in regard to a judge. It is the duty of a Speaker to call any member to order who uses language derogatory of the Bench; and that, of course, agrees with the principles laid down in the authority quoted by the hon. member for Balonne.

Mr. STEVENSON said: Mr. Speaker,—I am going to speak to the point of order. I wish to take notice of what fell from the Premier. He said that the precedents quoted by the hon. leader of the Opposition did not apply except where there was a *prima facie* case for the removal of the judge, and that they could deal with any other motion. I understand that the precedents amount to this: that unless a *prima facie* case had been made out no action can be taken in the House in regard to a judge, and it cannot be referred to a select committee. Now, sir, the hon. gentleman said that one judge, referring to Mr. Justice Cooper, had refused to admit the right of Parliament to interfere with his expenses. I do not know that the judge ever did anything of the sort. I do not know that he ever denied the right of Parliament to interfere in regard to his expenses. I never heard that at all. I am speaking, sir, entirely on the point of order. I do not think, unless false information had been given to this House, any action would ever have been taken at all by Mr. Justice Cooper. There is another point I cannot understand, and it is this: that if the Premier is right at all that the Parliament have a right to interfere in regard to the expenses of a judge, why he does not bring in a Bill himself. Surely he knows enough, after all this correspondence with Judge Cooper, to bring in a Bill to regulate the expenses of the judges without any select committee at all; and therefore, I think, at any rate, that the precedents quoted by the hon. leader of the Opposition will show you, sir, that your ruling must be to the effect that no select committee can be appointed by this House to inquire into the matter at all.

The SPEAKER said : Upon the broad principle which has been raised by the hon. member for Balonne, as to whether this House can exercise a controlling influence over the judges of the Supreme Court, my opinion must decidedly be in the affirmative, and it is borne out by all the constitutional authorities I have consulted. To admit the contrary would place the judges in a position where they would not only be entirely independent of Parliament, but entirely independent of public opinion; or, as Professor Hearne, in his latest edition of the "Government of England," suggests, it would lead to the creation of a set of Jeffreys, perfectly independent of Parliament and the people, and doing exactly what they please. It was never contemplated by Parliament to place the judges in such a position, though it has undoubtedly hedged them round with privileges in such a manner as to render them to a certain extent independent, so that they may discharge their important duties fearlessly and honestly. In regard to parliamentary precedents in connection with this case, I will refer to the case of Mr. Justice Fox of the Court of Common Pleas, Ireland. I am speaking now with regard to the question raised by the hon. member, the leader of the Opposition, on the subject of a joint committee of both Houses; and in answer to that question I must at once say, there is no parliamentary precedent, either English or colonial, where such a committee was appointed. It is, however, a question entirely for the House to determine, whether such a step shall be taken in this instance. In the case of Mr. Justice Fox, the House of Lords appointed a select committee to inquire into his conduct; but they subsequently discovered after they had gone to the second stage of the inquiry that they had made a mistake, and that the inquiry should have been conducted by a committee of the whole House. The committee of the whole House then inquired into the case, and the accused was ordered to attend; and after having done so, and after having wasted three sessions of Parliament in inquiring into the conduct of the judge, they discovered that they had again made a mistake, and that the proceedings should have been commenced in the House of Commons. No proceedings were taken in the House of Commons, and, owing to this blunder on the part of the House of Lords, the case fell to the ground, and there was no further inquiry made into the conduct of Mr. Justice Fox. The next case I find pertinent to the issue before the House occurred on the 20th May, 1828, when the House of Commons addressed the Crown with a request that the Commissioners of Judicial Inquiry in Ireland might be directed to inquire into the state of the Admiralty Court thereof, which was presided over by Sir Jonah Barrington. I may inform the House that the charge against him was misconduct and malversation in the discharge of his duties. The commission of inquiry brought up a report which was presented to both Houses of Parliament. Both Houses agreed that there was the strongest ground for the judge's removal, and that an address to that effect should be presented to His Majesty. An address from both Houses was accordingly presented, to which His Majesty subsequently made the following reply:—

"I cannot but regret the circumstances which have led to this address. I will give directions that Sir Jonah Barrington be removed from the office which he holds of Judge of the High Court of Admiralty in Ireland."

In the case referred to by the hon. member, I would like to call the particular attention of the House to this fact: In the case of Baron Smith, a motion was moved by Mr. Daniel O'Connell for a select committee to inquire into the conduct

of Baron Smith, and on that occasion Sir James Scarlett made use of those words which have now become a standard authority in connection with cases of this kind. He said:—

"I conceive that a motion for a select committee to inquire into the conduct of a judge is one which no Government should support unless they have first made an investigation and are prepared to say they think it a fit case to be followed up by an address for his dismissal. You may declaim about the independence of the judges; but if a judge, whose honour and integrity are unquestioned, even though he should have committed an indiscretion which may make him the object of odium to a particular party, is not supported by the Government, he will not have the courage to do his duty. I venture to say that, if this motion be carried, the judges in Ireland, if they have any independence, will all resign."

The motion was carried, however, nor was the competency of the House to appoint a select committee ever questioned. I desire to call hon. members' attention particularly to that point. As the hon. member pointed out in that case, the evidence produced before the select committee did not make out a case for an inquiry, and Mr. Knatchbull gave notice of a motion to rescind the previous motion. On the day appointed the previous motion for the appointment of the select committee was read by the Clerk at the table, and then Mr. Knatchbull moved a resolution that it be rescinded. After a long debate, during which the question was argued on both sides, that resolution was carried, but the competency of the House to appoint a select committee in the first instance to inquire into the conduct of the judge was never raised during the whole debate. In his latest edition on "The Government of England," Professor Hearne lays particular stress upon the controlling influence of Parliament over judges and courts of justice. He also quotes an extract from a speech of Mr. Burke's, which I will take the liberty of reading to the House, because it is very pertinent to this case. Mr. Burke said:—

"I have always understood that a superintendence over the doctrines as well as the proceedings of the courts of justice was a principal object of the constitution of this House; that you were to watch at once over the lawyer and the law; that there should be an orthodox faith, as well as proper works; and I have always looked with a degree of reverence and admiration on this mode of superintendence. For being totally disengaged from the detail of judicial practice, we came to something perhaps the better qualified, and certainly much the better disposed to assert the genuine principle of the laws, in which we can, as a body, have no other than an enlarged and public interest. We have no common cause of a professional attachment or professional emulation to bias our minds; we have no foregone opinions, which from obstinacy and false point of honour we think ourselves at all events obliged to support; so that, with our own minds perfectly disengaged from the exercise, we may superintend the execution of the national justice, which from this circumstance is better secured to the people than in any other country under heaven it can be. As our situation puts us in a proper condition, our power enables us to execute this trust. We may, when we see cause of complaint, administer a remedy; it is in our choice by an address to remove an improper judge; by impeachment before the Peers to pursue to destruction a corrupt judge; or by Bill to assert, to explain, to enforce, or to reform the law, just as the occasion and necessity of the case shall guide us. We stand in a situation very honourable to ourselves and very useful to our country, if we do not abuse or abandon the trust that is placed in us."

I do not think I can quote any words stronger or more forcible to show the practice which has been continued in the House of Commons from the time of Edmund Burke to the present time, and that there always has been a controlling influence on the part of the House of Commons over the actions of the judges. As to whether this motion can be put, my opinion is, supported by high authority, that it can, and it is entirely a question for the House to consider whether the inquiry shall be by a joint committee of the two Houses,

or whether, according to the usual practice in England, it shall be by a committee elected by each House. That is entirely a matter of detail, but so far as the abstract question is concerned, as to whether this committee can be appointed by Parliament to inquire into the conduct of a judge, and whether, under the circumstances, this motion can be put, I have no hesitation in giving my opinion that it can be put, and the motion is strictly in order.

Mr. MOREHEAD said : Mr. Speaker,—I am not going to discuss the decision you have arrived at, although I hold a very strong opinion contrary to your own. Had I the legal learning of the hon. member who leads the Government, I have no doubt I could make out a very strong case against you. I think myself that the authorities I have quoted show—and this point I must say you have not met—the whole of these cases show that no judge's conduct can be referred to a select committee unless a *prima facie* case is made out by the member making the charge against the judge, whether he be a member of the Government or a private member of the House, for a petition for the judge's removal. So far as this case is concerned I myself hold this opinion : that the Premier would have taken the extreme course indicated by the authorities I have quoted as the only one that can be taken when a judge's conduct is to be inquired into, but he knew he could not do it. He knew perfectly well the difficulties surrounding the getting up of a petition of that sort. I am sorry to say that I think personal political feelings have entered very gravely into the consideration of the question we are asked to discuss. I am sorry that this is the case, for more reasons than one.

Mr. W. BROOKES : I rise to a point of order. Is not that an imputation of motives?

Mr. MOREHEAD : It is not an imputation of motives; it is merely an expression of opinion. If I want to impute motives I will impute them.

Mr. W. BROOKES : You will not be allowed to do so here.

Mr. MOREHEAD : I shall never shrink from doing so either inside or outside this House; I shall have the courage of my opinions. I say I am sorry to think—and I repeat it—that there may be political, and possibly personal, differences which have led to this, as I may call it, unfortunate state of affairs.

The PREMIER : Tell us what they are; it would be a great comfort to me to know what they are.

Mr. MOREHEAD : I would point out, if it would be a great comfort for the hon. gentleman to know it, that as far as a dialectician and writer is concerned, he gets the worst of it in the correspondence.

HONOURABLE MEMBERS : Oh !

Mr. MOREHEAD : The lawyers cry " Oh ! " Well, we know perfectly well that the majority on the other side of the House is kept up by the legal talent of the colony. I do not care now much they call " Oh ! " I am perfectly certain that personal feelings have entered into the correspondence which has led to the proposal for the appointment of this committee. I do not think the Premier has made out any case to go before the committee. The case that he attempted to make out was a very lame one, and one which should never be sent to a committee of this House, because it is a departmental matter or, at least, a matter that could be dealt with by the Government, and there is no necessity for bringing it before the House. If the question of the expenses of the

judge of the Supreme Court of Northern Queensland is the real matter to be referred to the committee—and that is the nominal reason why the committee is to be appointed, and I suppose it will be appointed, because the Government have a majority at their back—I say that the Government could have arranged that by statute. The Government could have come down to this House after consultation, if not with the Northern judge, at any rate with the other judges on the Supreme Court Bench, as to what is a proper and full sum to allow a judge for his expenses, either a sum per diem or per circuit, whichever might be agreed upon by the Government, and possibly by the judge, and have introduced a measure dealing with the subject. I should have supported the hon. gentleman in that, and I believe every member of the House would have supported him in such a course. But why this inquiry? I think myself—I speak for myself individually, and I do not know that I speak for the Opposition—that it would be very much better for the official himself—a high official—a judge—and better for the country that we should know what we have to pay a judge for expenses, that the amount should be a fixed quantity. I have no hesitation in saying that, and I think the amount should be fixed by statute. If that had been done previously the unseemly wrangle which has taken place between the Government and the judge of the Northern Supreme Court would have been avoided. What is to be gained by the appointment of this committee? Are the Northern Judge and the head of the Government to be brought into a position of even worse antagonism than they are in now? What is the course of procedure that this committee which is to be appointed will take? What are they to do? Are they to inquire into the details of the expenditure of the judge of the Supreme Court in Northern Queensland? If they are that will be a most unseemly thing to do. If it be wrong-doing to allow judges to spend what money they choose, as they have had the opportunity of doing hitherto, it is very unfair that the details of that expenditure should now be inquired into. I think every hon. member will admit that. If it be wrong-doing it has been condoned and connived at by this House for years past. I do not propose, at the present time, to go into the correspondence which has taken place between the head of the Government and Mr. Justice Cooper. I have no more desire to do that than has the Premier himself, but I do protest—and I protest very strongly—against such a precedent being created as will be established by the passing of this resolution. Why, sir, suppose the leader of the Government or the Attorney-General was raised to the Bench, and I came down to this House and made a charge of an infamous character possibly, against those hon. gentlemen, and I had a majority at my back, and supposing hon. members opposite were sitting here and I was sitting there, and I applied for a committee to inquire into their conduct, what would happen? I should carry it after the precedent established to-day, and by so doing I should be doing what the Government are now doing by proposing this resolution—infinite damage to our highest court of justice. Supposing that tomorrow I brought a charge against, say—for the sake of argument—the Chief Justice, and made a lot of statements to the House, and asked for a select committee, what would you do, sir? Would you stop me after the precedent you have established this afternoon? You could not; and after this precedent any member of this House can come down here and apply for a committee and—

The PREMIER : A member always could,

Mr. MOREHEAD: I say any member can come down here and make the most scandalous charges against those who are a portion of the State, and apply for a select committee. Whether he gets a committee appointed or not is no matter. He will have made his charge and thrown some mud, some of which will be sure to stick. I hold that the Bench is portion of the State, and should be most carefully guarded in its honour by this House. Only the other day a case occurred—you must know it yourself, sir, if you read the newspapers, as no doubt you do—where Mr. Gaunson, in the Legislative Assembly of Victoria, attacked a judge in another colony—namely, Judge Windeyer. What happened? The Speaker, when his attention was called to the attack on that judge, took some time to consider what his ruling would be; and when he gave his decision he reluctantly ruled, so far as I could gather from the reports in the public Press, that he could not call the hon. member to order for attacking a Supreme Court judge in another colony, but if the same thing had occurred with reference to a judge in Victoria he would have called the member to order at once. But what has happened in this House? I am sorry to say, sir, that you have not called hon. members to order, when on a previous occasion Mr. Justice Cooper, who was a fellow-barrister of the hon. gentleman, was spoken of in terms of the most unmerited abuse—

Mr. SPEAKER: Will the hon. member pardon me? Such a thing has never occurred in the House. I would remind the hon. member that the discussion to which he refers took place in Committee of Ways and Means, and not when the Speaker was in the chair.

Mr. MOREHEAD: You are perfectly right, Mr. Speaker. The discussion did take place in Committee of Ways and Means. I hope that if such a thing does occur in the House you, sir, will call the hon. member to order, which the Chairman of Committees failed to do. It is quite correct that it was in Committee of Ways and Means that the Premier allowed a fellow-barrister, who, I think, was at one time a friend of his, to be abused by his henchman. An hon. member who is not now in his place, but is engaged in floating companies, or is supposed to be so engaged—I mean the hon. member for Gympie—was allowed to make a most dastardly accusation against Mr. Justice Cooper, and he is not the only member who has done it. There are others who do it as well. I think the Premier should give some good reasons over and beyond the question as to expenses why this matter should be referred to a select committee. But the hon. gentleman distinctly stated that the only object of referring the matter to a committee was to settle the vexed question as to the expenses of the Northern Judge. Well, sir, I would ask you, and I would ask every member of this House, is that what is contained in the resolution? I say no; the hon. gentleman says "Yes." Now, I shall have to trouble you, sir, and the House, to read the first paragraph of the motion moved by the Hon. Sir S. W. Griffith:—

"That the Legislative Council be invited to join this House in the constitution of a Joint Select Committee to consider and report upon the several matters disclosed by the papers and other correspondence relating to the travelling expenses of Mr. Justice Cooper, presented to both Houses of Parliament on the 19th of July."

That means a great deal more than expenses. There is a great deal more than "expenses" disclosed in the correspondence. Does he mean to tell me that he intends to confine the inquiry—because as chairman of the committee, which I suppose will be facile, he can get it to do as he wants—does he intend to confine it to the mere

question of expenses? Does he not intend to go any further? If the hon. gentleman gives me his assurance that that will be the whole and sole duty of the committee, I will take his word. Is it so? The hon. gentleman dare not answer me. I have given him an opportunity of confirming a statement he made when moving this motion.

The PREMIER: I do not think my statements require confirmation.

Mr. MOREHEAD: They do. The hon. gentleman is in error. Of course, Mr. Speaker, you have ruled that we can have a joint committee of the two Houses—that is to say, we may invite the other House to join us in forming a committee, but you have also admitted that there is no precedent for it. Well, sir, there have been a number of precedents made by the present Parliament which are, I think, very unfortunate, and I only hope that this precedent—which will, I suppose, be created by the present Government—will not be equally unfortunate. I think, in passing this resolution as it stands now, we are not only lowering the dignity of the Supreme Court Bench of this colony, but we are striking a tremendous blow at justice being administered in the colony. Sir, if every Supreme Court judge in the colony is to be subjected for some paltry cause, by the gentleman who calls himself his official superior, to a committee being appointed by this House to inquire into that judge's conduct, I say a great blow will be struck at the administration of justice. I am certain of it, and there is not one gentleman who will not agree with me in that opinion. Why, sir, this is simply, and I have no hesitation in saying so, a political persecution from beginning to end. It is based upon political differences and political feuds, and is now to be carried out to its bitter end. I do not know what that may be. If the Premier does not intend to remove Mr. Justice Cooper, or does not wish his removal, it is simply to vent the spleen of the Premier and also of the Colonial Treasurer upon a man who is in some respects more capable than they themselves. How is a case to be made out? Has anything been done by Mr. Justice Cooper to justify this House in asking the other Chamber to form a committee to inquire into his conduct? The Premier did not make out a case, and he said he did not wish the question to be discussed. He wanted the matter to go by without any discussion. I do not think, sir, that he should have done so, that he should have asked for a committee to inquire into the conduct of any judge—whether it was Smith, Jones, Brown, or Robinson—of the Supreme Court of this colony without having an overwhelming case and without telling us from beginning to end what his case was. But he did not. He said he did not wish the matter to be discussed on the motion for appointing a committee, and I can quite understand that, considering the facile following he has. But I repeat that before a committee of that sort should be appointed an overwhelming case should be made out. The hon. gentleman did not condescend to tell us why he was going to invite members of another place, or whether they had consented to join us in forming this committee.

The PREMIER: I did explain fully. If you were not listening do not blame me.

Mr. MOREHEAD: I listened most carefully, but possibly I did not comprehend. The hon. member's remarks may have been very clear, but they were not very clear to me. He intends to do two things—and you, Sir, have ruled him right in one—which are unprecedented in the annals of

any British Legislature. In the first place, he proposes to appoint a committee to inquire into the conduct of a judge, without having made out—as is laid down as an axiom in all parliamentary practice—a *prima facie* case for his dismissal; in fact, he says he does not wish for his removal. Secondly, he establishes another precedent by creating an unknown tribunal. It is laid down here in a work well known to the leader of the Government what subjects may be relegated to committees of either House or of both Houses; but, by your ruling, Parliament may do anything. If you rule that the members of the Opposition should stand on their heads, I suppose they ought to do so. That would be a very difficult thing for some to do; but it seems from your ruling that such a motion may be brought forward. "Todd" distinctly lays down under what circumstances and on what conditions the conduct of a judge can be relegated to the investigation of a committee of the House; and no one knows that better than the Premier. Will he have the hardihood to tell me that any one of those conditions has been arrived at by Mr. Justice Cooper? Has his conduct been of such a nature in any one particular—I will ask the Premier to give me a definite answer—has he in any one particular acted in such a way that if he were a judge of the Supreme Court in England it would lead to his conduct being investigated by a committee of the House of Commons or the House of Lords? He knows the law a great deal better than I do; he knows that he is now taking an unprecedented course, and that Mr. Justice Cooper has not done anything that would, in any country not governed by a gentleman whose prejudices run away with his ordinary common sense, cause such a motion to be made under the paltry pretence set forth in these resolutions. If I am wrong, I should like to be put right. If the hon. gentleman can show me a case even approaching this one, that has occurred in any British colony or any other portion of the British dominions where parliamentary representation exists, I shall admit at once that I am wrong; but he has not done so. I have no doubt that he will carry this resolution through. I may also tell him this: though I hold the action he is taking to be thoroughly unconstitutional—though I hold the appointment of this committee to be almost *ultra vires*—I shall not shrink from sitting on the committee, but shall take very good care, so far as the little ability I have is concerned, that he shall not carry out to the full his intention, under the cover of a parliamentary committee, of injuring possibly a personal enemy—at any rate a political one.

Mr. W. BROOKES said: Mr. Speaker,—In listening to the hon. leader of the Opposition I came to the conclusion that he made a speech more damaging by far to the Bench of this colony than the appointment of this committee. Now, I have listened very attentively to the speeches which have been made, and I am convinced that the course proposed in this motion is the only one consistent with common sense. The speech of the hon. leader of the Opposition reduces the matter to an absurdity; but I am quite sure that if the course he recommended were adopted it would have an entirely different effect from that which I think he had in view—which was to defend the judge in question. He talks about a *prima facie* case. There is no *prima facie* case.

Mr. MOREHEAD: There must be according to law.

Mr. W. BROOKES: Not as I read the terms of this question. This is a motion for the appointment of a joint select committee "to consider and report upon the several matters disclosed

by the papers and other correspondence relating to the travelling expenses of Mr. Justice Cooper." Now, why the hon. leader of the Opposition should have imported such really irrelevant matter as he has done passes my understanding. To follow the advice of the hon. leader of the Opposition would be to place the judges so far beyond public opinion—so far out of the reach of Parliament—that they could do whatever they liked, and we might then have a succession of judges of the calibre of Judge Jeffreys. Now, I am no lawyer any more than the hon. leader of the Opposition, but I have always understood that Parliament is supreme—simply supreme. If a judge is considered as a member of the Executive, it must be in some merely legal sense, not in any practical sense that I am able to discover. I cannot see why we should have all this talk about a motion which seems to me most leniently worded. I see nothing in it extreme—nothing of personal or political animosity. I think the Premier is perfectly justified in asking the advice of a committee of this House and of the other House upon the matters contained in this motion. And I may say this also: that I am perfectly confident that the speech of the hon. leader of the Opposition is nothing else than an opposition speech. I will not do such injustice to the hon. gentleman's judgment as to assume that he believed all he said. If ever there was a party speech made in this House, the speech we have just listened to is that speech. I deprecate such a speech in the interests of the Bench; and in so far as it was an impugnment of the authority of this House to discuss anything whatever, I call it in question. I consider that this motion is a very kind and charitable and warranted way of dealing with the question. There may be more involved in it than just the mere amount of travelling expenses; but it must be evident to every hon. member that the proposition of the hon. leader of the Opposition, to have a fixed amount for travelling expenses in a great growing colony like this will never do. I very much prefer leaving it to the gentlemanly character of the judges, and that has always been the understanding.

Mr. STEVENSON: That is the case now.

Mr. W. BROOKES: Very well; we have to inquire whether the trust in the gentlemanly character of the judges has been or has not been misplaced. I do not say it has; but let us inquire. It does seem absurd to expect the Premier to come and prove his case, and then call upon a select committee to say how far the case is proved. I really do not see the *rationale* of that plan of proceeding; and I trust we shall not hear any more such speeches as that we had from the leader of the Opposition to-night; they do an immense deal more harm than good: they tend to disturb the judgment of the House, and they can have no other effect than the exact contrary of what the Premier intended in this motion. What the Premier intended by presenting this motion to-night was, that the various matters disclosed by the letters and correspondence relative to the travelling expenses of Mr. Justice Cooper should be quietly and calmly considered, and in that case I am perfectly certain that Mr. Justice Cooper would be tenderly dealt with. I am sure I am expressing a sentiment in which the whole House will join when I say that whenever a judge brings himself into such a position that his conduct is liable to unfavourable comment, this House should approach such a subject with tenderness. That is the spirit in which I am sure the House will approach this matter; but we have not been invited to approach it in that spirit by the speech of the hon. leader of the Opposition, who displays an

angry feeling, a party feeling, flings charges about, and seems to have a knowledge of the interior motives of people that only omniscience could possess. But still he will not disturb me, nor do I think he will disturb other hon. members. I am sure I speak the opinions of others as well as my own when I say that, if this committee be appointed, nothing but tender justice will be done to Mr. Justice Cooper. I end as I began—that it will never do for this House to lay down the principle that the judges are above the Parliament.

Mr. LUMLEY HILL said: Mr. Speaker,—I quite agree with the last words spoken by the hon. member who just sat down. It would never do to lay down the principle that the judges are above Parliament, and are not open in any way to be dealt with by Parliament. But at the same time I think that, in accordance with the precedents that have been quoted on both sides, Parliament is only empowered to deal with them when a *prima facie* case for their dismissal has been made out. I will oppose the appointment of this select committee on another ground, and that is simply that I have very little faith in select committees. I know their reports are always looked upon with suspicion. There is an old saying—"Tell me the committee and I will tell you their finding." It was found necessary in this House to do away with the Committee of Elections and Qualifications. Their findings were invariably looked upon with great suspicion. Why, sir, I myself on one occasion suffered in the matter of California Gully from the report of one select committee, and I have very little faith in the finding of select committees.

Mr. HAMILTON: You would not have got in but for bribery.

Mr. LUMLEY HILL: I did not stuff ballot-boxes with papers. There was no bribery in my return at all.

Mr. HAMILTON: You are the only man who says so.

Mr. LUMLEY HILL: However, that is straying from the point. A select committee of this kind, if formed, would simply fritter away and waste a great deal of time, and the only ultimate conclusion that I can see is that they will bring up certain resolutions and the matter will all have to be thrashed out again on the floor of this House. I think, therefore, that the simpler method would be for the Premier to bring forward a Bill limiting the expenses of the judges on circuit. I do not like motives being ascribed to anyone, but no doubt there has been a little political friction on both sides. We know that even after a party has gone out of power animosity remains and bitter feelings are carried into many other places besides the Bench. Men are, after all, but mortal, with human feelings, and a man loves his friends and is supposed pretty generally to hate his enemies, and I do not expect any man to be able entirely to rid himself of all prejudices. Of course, if this resolution is carried, and the select committee appointed, I shall not flinch—much as I dislike it—from accepting the responsibility of dealing with the matter, and I trust I shall be able to do it without any spirit of political partisanship, and to free myself of all personal feelings. I shall much regret if the motion is carried, even in this House, and I hope that, if it is carried, the other House will refuse to join us. I shall vote against the motion if it goes to a division.

Mr. STEVENSON said: Mr. Speaker,—I really cannot see what this committee is going to do when it is appointed. I do not know what other evidence we can get. We know every-

thing connected with the correspondence just as well as we can be told by witnesses, and I am perfectly satisfied we know what money has been spent. We know what Mr. Justice Cooper's expenses are, and even if we did not the Treasurer no doubt could supply us with the information to-morrow. The Premier has simply moved that a committee be appointed, without giving us any further information, and of course that debars many hon. members from dealing with certain matters which they might bring forward. I hope when this debate is concluded the Premier will not in his reply refer to these matters, and in that way try to influence the votes of hon. members. I consider the members of the Government are very much to blame for having brought this matter forward at all. It is well known that the Attorney-General sat in his place last year and listened to hon. members abusing Mr. Justice Cooper when he could have stopped them by giving the real facts. That is a fact, and the hon. gentleman had to admit it afterwards when telegrams were sent down from the judge. The Attorney-General then admitted he was wrong; that he had willingly or unwillingly falsified the expenses. We can get all the information we want without going to the expense of appointing a select committee, and I thoroughly agree with the hon. member for Cook, Mr. Hill, that even when a report is brought up the matter will have to be thrashed out again on the floor of the House, and there will be no result. On those grounds I shall certainly oppose the motion.

Mr. ANNEAR said: Mr. Speaker,—I do not think we should go back and discuss what took place on the passing of the Estimates last year. I may say I have not read the correspondence which has been placed before us; but as a colonist I think it is time that some action should be taken to prevent a recurrence of what has been taking place within the last year or two with reference to Mr. Justice Cooper's expenses. We have seen lately, in the metropolitan papers, that the judge, at the last Townsville circuit, adjourned the court with a threat that if his demands were not complied with he would release the prisoners. Now, sir, is that a dignified position for a judge of the Supreme Court to take up? I do not think it is, and I think it is high time to try if something cannot be done to prevent a recurrence of these scenes.

Mr. STEVENSON: That is not the question.

Mr. ANNEAR: It is closely connected with the question we are called upon to discuss. I consider that the conduct of the judge on the occasion to which I refer was not creditable, and there is no doubt that every colonist was exercised to see the way in which the criminal business of the court was conducted on that occasion.

Mr. MOREHEAD: I rise to a point of order, Mr. Speaker—Is the hon. gentleman justified in referring to a judge of the Supreme Court in that way?

The SPEAKER: I have followed the hon. member very closely, and he has not, so far, said anything disrespectful of the judge. He is taking exception to the conduct of the business of the court and not to the judge.

Mr. MOREHEAD: Of course, sir, I bow to your superior knowledge on these matters, but I think that when the hon. gentleman refers to the fact that every colonist was horrified at the way in which the business was conducted he must certainly refer to the judge; I do not see how he can be referring to anyone else.

The SPEAKER: The hon. member was only giving an expression to an opinion with regard to the conduct of the business of the court. In the House of Commons exception was taken to

disrespectful remarks made by one member against Mr. Justice Keogh, the language used being that he was a "religious and political firebrand." The member in question was called to order immediately, and the Speaker ruled that such words should not be applied. The hon. member has not made use of any language of that kind.

Mr. ANNEAR: Mr. Speaker,—I have no intention of saying one disrespectful word with regard to Mr. Justice Cooper; I simply referred to his public conduct. On the occasion I have referred to, the officers of the Telegraph Department must have been kept all night telegraphing to the Press accounts of the proceedings in court; and then again we see the position in which Mr. Power, the Crown Prosecutor, was placed. And taking all these matters into consideration, I say it is time some action was taken. I was pleased to hear the remark of the Premier that he did not move for the appointment of this committee with the intention of having Judge Cooper removed from the Bench, but if what we have heard and read is true then the committee will find out the facts, and report to the House. I have no doubt that that committee, which includes the Premier and the other hon. members whose names we see, will arrive at a just decision. On these grounds I believe they will be doing their duty to the public throughout the colony in trying, if possible, to prevent matters of this kind occurring, which are not in any way creditable to the colony of Queensland.

Mr. CHUBB said: Mr. Speaker,—No one for a moment can say that any hon. member on this side of the House objects to the conduct of a judge being inquired into, but let it be done in a proper manner. What is said is, that this is not the proper course to take, and I feel bound to oppose it for reasons which I shall give as shortly as I can. In the first place, I think it is objectionable that the committee should be made a joint one. If the matter is to be inquired into at all we should have a committee of our own House, and let the other House appoint their committee. You have told us, sir, that there is no precedent for a case of this kind, and I think it is not always wise to make one. In the case that I referred to, the select committees were appointed by the respective Houses, and even in the precedent you yourself referred to, the select committee was appointed by the House of Lords. So that no precedent can be quoted or case cited with respect to what is proposed to be done now. But there is more than that to be said. If we pass this motion, the Legislative Council may decline to appoint a committee, and we should to a certain extent stultify ourselves by asking them to join in a committee which they refused to do. Another question may arise. I notice that this motion does not propose to call for papers and send for persons. It is quite true that each House has power to order persons to appear before a select committee appointed by it, but the question may arise as to whether a joint committee of both Houses has the power to order any person to attend before that committee, if it were necessary to have them present for examination; and in South Australia Mr. Justice Boothby did decline at first to attend the sittings of a select committee in that colony—although afterwards he did so—on the ground that they were not properly constituted. But there is a still further and graver objection, as I read this motion, and that is that it will enable the committee, if they think fit, to bring up a report condemnatory of the judge. They have power, under the wording of this motion, to censure the judge, and although no further action should ever be taken on that report, that judge could not discharge the duties of his office in as free and independent a manner

as he would do at present. He would remain under a stigma of censure passed by a report of the joint Houses of Parliament. And he could not be said to be independent, because if he remained on the Bench it would always be held over him that he had received a censure from Parliament. I do not say that that is proposed to be done or that the Chief Secretary wishes it to be done; but there is a possibility—there is a probability—that the committee may bring up a report which would be a censure upon the judge, because they are asked to report on the several matters disclosed by the papers. There is a personal quarrel between the Chief Secretary and the judge; there is a question of polite letter-writing; and there are some other questions the details of which hon. members have at present no desire to go into. But there are several questions in this printed document which lie beyond the question of travelling expenses, and if the committee are to inquire into and report upon the whole of the matters that may be disclosed in this correspondence, they have ample power to bring up a report condemning the judge. And if that were done, I say the consequences would be most unfortunate. Further than that, what can be the object of the committee, except to make some recommendation to the House as to what should be the future amount that should be allowed to a judge for his travelling expenses, or in what way they should be drawn or expended? But if we are going to deal with one judge, why not deal with them all? Why not deal with the whole of the judges of the colony in one comprehensive scheme? The proper way would be to introduce a Bill providing that the expenses of the judges should be fixed by statute, and apply it equally all over the colony. I will venture to say that honestly I do not believe that this motion would be tabled with respect to any other judge of the Supreme Court. I do not wish to regard this as a personal or party matter; it is something far higher and more important than that; and if we are going into the expenses of one judge we ought to avoid any question in the future, by dealing with them all and putting them all on the same footing by a Bill, as suggested by the leader of the Opposition. That would really be the simplest and most constitutional course to pursue. It seems to me as if the Government are attempting to put on the shoulders of somebody else a burden which they ought themselves to bear. If they have a complaint to make against a judge that he has exceeded the fair amount which should be allowed him for expenses, let them bring forward that as a specific statement and ask Parliament to take some definite action on it, and not bring in a general motion of this kind, shouldering upon a joint committee of both Houses the work which the Government ought to do themselves. For these reasons, Mr. Speaker, I feel bound to vote against the appointment of this committee.

The COLONIAL TREASURER said: Mr. Speaker,—I exceedingly regret to see that the debate so far seems to be going on strictly party lines, and that the appointment of this most important committee seems to be viewed as a measure of party policy, instead of a measure in which the entire community is interested. I am sure my hon. colleague the Premier, in introducing this motion for a committee, expected he would have received an impartial support from both sides of the House. The constitution of the committee denotes that.

Mr. MOREHEAD: The Premier knew that I should oppose it. I told him so.

The PREMIER: But I did not understand the hon. member's opposition to it to be on distinctly party grounds.

The COLONIAL TREASURER: The leader of the Opposition has attacked the appointment of this committee on purely party grounds, and not from any objection to the mode which the Premier proposed to adopt. I contend that the Government, in introducing this motion, are doing so with a view to maintain the dignity of the Bench, and not in any way to disparage it; and that if hon. members address themselves to the consideration of the question in the same spirit in which the resolution has been framed, it will tend to prevent in the future any of those unseemly circumstances which have unfortunately occurred lately, and which, unless something definite is arrived at by a committee of this sort, will probably occur again in the future. The hon. member for Bowen asked why the committee should not be appointed to inquire into the expenses of the other judges of the Supreme Court. The answer is obvious. The other judges of the Supreme Court have not given the Government cause to express any dissatisfaction as to the amount of expenditure connected with their travelling allowances; therefore there is no necessity for any such inquiry. I take it that the appointment of a committee to consider the provision that ought to be made for the judge of the Northern Supreme Court is intended to place that gentleman in a satisfactory position, so that he may not have any cause of complaint against the Government of the day for making inadequate provision for his expenditure. I disclaim entirely the position which the hon. the leader of the Opposition has assigned to me in mentioning my name, that I was actuated by a feeling of spleen or animosity, political or otherwise, in connection with the Northern Supreme Court Judge. I never in any way evinced ill-felling. In the absence of the Premier I was compelled to have direct correspondence with the judge, and I am sure that from it no one can say that I acted in the slightest degree vindictively or addressed him in any other way than as one gentleman should address another, or in any way beneath the honourable position he occupies, which I should have liked, for his own sake, he had then occupied with greater dignity. I am not going to address the House at length, but I take this opportunity of saying that the action of the Government—so far, at any rate, as I am concerned—has been directed without any vindictiveness or ill-felling against the Northern Supreme Court Judge; and in my opinion, if this committee acts as it is expected to do, and as it may fairly do under the framing of this resolution, it will prevent a great deal of future unpleasantness in connection with, not only the present Government, but their successors in office, by making adequate provision for the expenses of the judges of the Supreme Court. I may say, Mr. Speaker, that the debate has to a certain extent been taken up by hon. gentlemen opposite on lines which I am sure they would not generally express—that is, that there is a superior tribunal to Parliament. I always regard Parliament as the supreme tribunal—as the one authority above all others that we should recognise; and while we respect the judges of the Supreme Court, still I do not think any hon. member will for one moment suggest that they are superior to Parliament. I would also point out that inquiries of this sort are not novel, seeing that correspondence has lately been published in connection with somewhat similar circumstances in Tasmania which have a bearing upon this case. The judges in Tasmania have travelling allowance, a very moderate sum, for visiting the Northern Court at Launceston, and the Auditor-General of that colony protested against the full amount of the allowance being drawn periodically as part of salary, and con-

sequently referred the matter to the Treasurer. The judges, upon being addressed by the Attorney-General, agreed to charge a certain sum per diem, exclusive of railway fares, to cover all expenses. The amount was extremely moderate. I do not mention the sum, because I do not care to institute any comparison in details of the question; I am merely going upon matters of principle. The amount was very moderate, but still the Colonial Auditor of Tasmania was not satisfied with the concession that the Supreme Court judges were prepared to make, and he, in a final letter to the Attorney-General, under date May 26, 1887, says:—

“Respecting query No. 3 of 23rd April, 1887, referring to the payment of a fixed allowance to their honours the judges for attending the sittings of the Supreme Court at Launceston, and the minute of the hon. the Attorney-General thereon, the Colonial Auditor having again carefully considered the question at issue, and also having in view the important principle involved, is of opinion that he would be compelled to refer the case to Parliament unless the course suggested in this query should be adopted, namely, that the amount of travelling expenses actually incurred by their honours only be claimed.”

I have introduced this to show that it is not a novel proceeding to submit a matter of this kind to the consideration of Parliament; and I believe that by the select committee being appointed, with a view of making reasonable and adequate provision for the expenses of the Northern Supreme Court Judge, it will terminate in a satisfactory manner a quarrel which, up to the present time, has been of a very unseemly character.

Mr. MOREHEAD: On one side.

Mr. NORTON said: Mr. Speaker,—I do not know how far this has been made, as suggested, a political question, but I do know that it ought not to be made a political question; and I regret to say that the judge whose case is now under discussion has, whether rightly or wrongly, treated it as a political one. That fact is indisputable. Mr. Justice Cooper has, in all his correspondence, made it clear that, whether rightly or wrongly, he has treated it as a political question between the Government and himself, and I call attention to that fact, because I am disposed to make some allowance on that ground, even though it may not be a course that I altogether agree with. I think the House has got into a most unfortunate position. The hon. the Treasurer, and some other hon. gentleman who preceded him, spoke of this House as supreme. Well, it is so to some extent, but it is not supreme in the sense in which the hon. gentlemen urges that it is—the sense which admits the power of this House, or of any particular member of it apparently, to bring under discussion the conduct of a Supreme Court judge. Why is a judge of the Supreme Court placed in the position he is—that this House cannot deal with him except in a particular way? Is it not that no political influence may be brought to bear upon him which might possibly have a prejudicial effect upon him? By the course which has been taken to-day, and the ruling which you, sir, have given—which I very much regretted to hear—the House is placed in a very unfortunate position, in so far as they admit that this House, or any member of it, has a right to bring up a question whether a judge, in some particular action, has done right or wrong, and it may be discussed just as freely as members please. I do not believe in judges having supreme power; I do not believe in judges being beyond criticism; but there is a proper way in which it should be done. There is a law, I believe, which directs that if action is to be taken with regard to anything a judge has done it should be taken in a particular way, and we are not following the course there laid down.

All the precedents that were read this afternoon may bear more or less upon this question. How far they do so I am not going to say, but this I do say: that, whether they bear strongly on this case or not, they point out most clearly that in the House of Commons special care is taken to prevent any action being taken by a member of that House which may influence a judge of the Supreme Court or place him in fear of doing his duty impartially. In that sense I regret that the hon. gentleman has thought it desirable to table this motion, and also that the decision you gave was such as it was. I think the argument which has been used, that this House is supreme, is an unfortunate one in this case, and I will point out that, as a matter of fact, beyond all question it is not supreme as regards the judges. The judges are beyond our power; we cannot dismiss them. There is only one course we can adopt for getting rid of them, and I think the fact that a judge is put beyond the power of Parliament indicates also the undesirability of bringing in a motion of this kind. I think that clearly shows first that we have not power to dismiss them, and therefore we should have no power to criticise their actions unless we intend to indict them. If a course had been adopted similar to that, then, sir, I think the Premier might have claimed the support of the House; that is to say if he believed the conduct of the judge had been such that he ought to be removed. If his conduct had been such that he ought to be removed there was no other course to adopt. But if the question is merely a question of money—whether a judge should be entitled to so much as travelling allowance, or less, or double the amount, then there is a reasonable way of dealing with the matter. It has been pointed out by the junior member for Cook, I think, that the manner in which that might be settled beyond dispute would be the passing of a Bill by which the judges should be entitled to receive so much and no more. Then they would know what their position was. I have no party feeling in this matter, Mr. Speaker, and I have no personal feeling. The judge is not an intimate friend of mine—I may say that I know him personally very little beyond having seen him while we were sitting together in this House, and then only as a member of this House—and I have no party feeling in the matter whatever. I go so far as to say that I, for one, disliked very much the correspondence that appeared in the *Courier*; and I think it a most unfortunate thing that that correspondence should have taken place. If one was to blame, both were to blame, though possibly the one who initiated the correspondence was most to blame. It was, I say, most unfortunate from the manner in which, as I think, it lowered the dignity of the two concerned in it. I ask what it is the committee are to inquire into. They are to inquire into the subject-matter of the paper placed in our hands. We have all the evidence here, and why can we not deal with it ourselves if it is to be dealt with at all? Surely no reason has been assigned why we should ask only a few members of the House to deal with this question which concerns us all. No reason whatever has been assigned for asking members in another place to help in forming the committee now proposed. I think, as was suggested by the hon. member for Bowen, that the Government have a duty to perform which they are avoiding. It is the duty of the Premier undoubtedly to take the responsibility upon himself, and deal with Mr. Justice Cooper so far as to make a recommendation to the House, which he could ask the House to assist him in carrying out. I think, in putting the question in the way he has done, he has forced opposition from this side, and has forced hon. members on his

own side to deal with the matter as connected with the party. The reason the judges are put beyond our control is in order that it should not be in the power of any majority or party in Parliament to intimidate them in any way. In this case I ask hon. members to consider what the result of passing this motion will be. I set aside Mr. Justice Cooper altogether. Let us think of any judge of either the southern or northern portions of the colony, and is it not possible at some future time that a judge may be appointed who may be influenced by action brought to bear upon him by this House? We all know that a weak man—a man who has not sufficient self-reliance to act independently of all criticism—may be appointed to the honourable position of a judge, and such action as will be taken by the House if this motion is passed might have the effect of intimidating him and lead him to give a decision not in accordance with the facts brought before him as a judge. That, I believe, will be the effect of passing this motion as it stands. I may say when this question first arose, to which our attention is now directed especially, I was surprised at the action taken by Mr. Justice Cooper. I do not know what I should have done in such a case, but I feel I should certainly not have taken the extreme course he adopted. But we are bound to consider what his feelings were. I pointed out already that in all the correspondence that has taken place Mr. Justice Cooper has put it beyond question that he regarded this grievance of his with the head of the Government as partly a political one. If that was the case, is it not possible that he may have regarded the action of the Government in reducing the amount or trying to reduce the amount he was to receive for travelling expenses, as also partly political? He seems to have regarded it—I do not say he did so with justice, but he seems to have regarded it, to a certain extent, as a political persecution. As that is the case, a certain amount of allowance can be made for him, although his conduct may have been very injudicious. It may be said that the Colonial Treasurer's letter to Mr. Justice Cooper ought to have been sufficient to satisfy him that whatever his expenses were they would be paid, but we cannot pass over the fact that an assurance had been given to him before, that if he wanted a special train he had only to ask for it and he would have it. Notwithstanding that assurance, when he did ask for it he was refused it. I believe that was a mistake; but he may not have thought it so. I daresay that, had his mind not been influenced by the suspicion that he was being unfairly treated, he would also have regarded it as a mistake. I hoped that when this matter was brought before the House last session we were done with it. We were getting very sick of Mr. Justice Cooper's expenses, which were referred to pretty often in the Press, and the subject was one which I hoped would never be brought up again. The Committee of the House, sitting at the time the matter was brought up last session, was in a peculiar position. The Premier ought to have known—I assumed he did know—what would have been reasonable expenses to allow under the circumstances. He named a certain sum, and I for one accepted that as sufficient on his representation. If the Government had acted reasonably they would have insisted that on no account was that amount to be exceeded; but as soon as Mr. Justice Cooper raised his objection then the Colonial Treasurer does not confine himself to the amount voted by the House, but gives the judge the assurance that if he thought it necessary to spend a larger sum his action would receive the favourable consideration of the Government. He as much as promised that the sum paid by the

judge would be paid by the Government although it might exceed the amount granted by this House. If the sum voted was not sufficient, then I think the Premier was at fault in fixing it at so low an amount, because he ought to have known how much was required. I believe that every member of this House accepted the assurance of the hon. gentleman that it was sufficient. It appears to me that we have got back to the same old thing again. It was decided last year that the sum of £400 was sufficient to meet the expenses of the Northern Judge. Since then the question has been again raised by Mr. Justice Cooper whether that amount was sufficient, and the Government by their action have allowed that it is not. So that we are in the same position now as we were before the discussion took place last session. There is one matter in connection with this subject that can only be regarded with regret, and it is this: The House arrived at the conclusion last year, on the assurance of the Premier, that the sum of £400 was a sufficient amount to vote, and when that was settled I think the decision should have been officially communicated to Mr. Justice Cooper. He should have been at once informed of what had taken place. But instead of that no official communication was sent until the 26th of February, and, according to Mr. Justice Cooper's statement, he did not receive the letter till the 8th of March. So that eight months of the year had absolutely passed away before he received an official communication from the Attorney-General informing him that the House had fixed a sum which could not be exceeded. The least that could be expected, after such a recommendation had been made to the House and acted upon, was that the judge should be informed of the action which had been taken, and if he liked to fight the matter out afterwards he would then have been in a worse position than he was in the circumstances under which the dispute did arise. For my own part I must vote against the appointment of a committee. As I said before, I have no personal feeling in the matter, and I think if I were in a similar position to that in which Mr. Justice Cooper was placed, entertaining the same feelings as I do, unbiased by any feelings of prejudice, such as, perhaps influenced Mr. Justice Cooper, I should not have acted as he did. But I shall vote against the motion because of the effect it may have afterwards. It is not merely because of its effect on Mr. Justice Cooper that I am opposed to it, but because of the effect it may have on other judges in the same position, who may be intimidated by the action we propose to take here now. I think, as I have already stated, that we have got into a most unfortunate position. It seems to me that we have done the very thing which the Act that places judges in their present position seems to aim at preventing us from doing. We are taking up that position which must make a judge feel that his action may be criticised by members of this House as they please, and, as I said before, it is quite possible that a judge who has not the strength of mind to resist criticism may be so intimidated that his judgments will be warped when he has to give decisions which may be of vast importance to those concerned.

Mr. SHERIDAN said: Mr. Speaker,—As I look upon this debate as the most interesting debate I have heard in this House, I wish to say a few words on the subject. I have listened very carefully to what has been said, and I can safely say, to use an old quotation, that Mr. Justice Cooper has reason to exclaim, "Save me from my friends!" The words "political persecution" have been made use of several times, and their being set up as a reason why a committee should not be appointed by this House to

inquire into the conduct of Mr. Justice Cooper infers at once that he is a political judge, because—

Mr. MOREHEAD: I ask, sir, whether the hon. member is entitled to say, even by implication, that Mr. Justice Cooper is a political judge.

Mr. SPEAKER: If the hon. member made use of the words or even implied them he is certainly out of order.

Mr. MOREHEAD: He used the words.

Mr. SHERIDAN: I did not for one instant impute that Mr. Justice Cooper was a political judge.

Mr. STEVENSON: The hon. member said so.

Mr. SHERIDAN: I said that the arguments made use of on the other side of the House would lead one to suppose that he was. As to my supposing that he was, I may at once say that I do not think so, nor did I mean to infer it. I say this advisedly. I am more inclined to be a friend of Mr. Justice Cooper's than otherwise, and in his interest I contend that a committee should be appointed, because the results of the deliberation of that committee will be what will prove Mr. Justice Cooper entirely innocent or the reverse.

Mr. MOREHEAD: Innocent of what? What is the charge?

Mr. SHERIDAN: Exceedingly unpleasant rumours have been circulated with regard to Mr. Justice Cooper. He has been accused of wilful extravagance; he has been accused of what may be termed contumacious conduct; and he has been accused by public rumour in the Northern towns of setting a bad example to those around him. A judge ought to be a person beyond suspicion. It is all very well for one to be sneered at or laughed at, but the sneers that come from a certain quarter will have no effect upon me. I repeat that the friends of Mr. Justice Cooper ought, in justice to him, to insist upon this committee being appointed, and a strict inquiry made into the unpleasant rumours that are in circulation. I do not say for one moment that they are true; I should be exceedingly glad if they were found to be untrue, and should be pleased to see him come out of the ordeal of an inquiry with honour. I am not in favour of a joint committee. I think this House has full power to deal with the question without the other House. If the Council think proper to deal with it they can very well do so, as has been said by my hon. colleague the member for Maryborough. We know very well it was the fact of having been a political judge that has handed the name of Judge Jeffreys down to ignominious execration to this day. We know that of all men in the land he who should set a good example to the rising generation is the judge. A judge should be a man above suspicion. I do not attach any suspicion to Mr. Justice Cooper, but the tendency of this debate is to attach suspicion to him. I therefore think that the appointment of a committee of inquiry is the straightest way of bringing Mr. Justice Cooper through the ordeal, and I shall certainly vote for the resolution proposed by the Premier.

Mr. MOREHEAD: If he changes his religion, will you be in favour of that?

Mr. SHERIDAN: With regard to religion, there is a saying that the devil himself can quote Scripture.

The Hon. J. M. MACROSSAN said: Mr. Speaker,—I am sorry to be obliged to speak on a subject of this kind, but as the Premier has moved the resolution I am bound to say what I

think about it. I think, sir, in the first place, that it would have been well if you could have ruled that the putting of the motion as it stands was unconstitutional. I do not know whether you misapprehended the point laid before you by the leader of the Opposition—that a *primâ facie* case should first be made out before a committee could be appointed. I, for one, do not dispute for a single moment the power of Parliament—be it very far from me to do so—I regard Parliament as omnipotent under the Almighty; and, therefore, anything that Parliament does must be right as far as law is concerned. So far you were right, I think, in giving your ruling; but I think the point was missed—that all precedent is against the granting of a committee unless a *primâ facie* case is made out, a case that would lead subsequently to the removal of the judge. One hon. member on the other side asked whether the Premier would be required to prove the *primâ facie* case. Certainly not. The proof would be laid before the committee, and only the *primâ facie* case made out in Parliament. That, I think, is what the leader of the Opposition meant by asking your ruling. Now, sir, I am not one who regards judges as being exceptional individuals that we should all bow down to and worship. I respect the office of a judge; but I regard and respect the man simply according to his moral worth as an individual. I have no prejudice either for or against Mr. Justice Cooper, though he was my colleague for a short time. I have no sympathy whatever with any charge of extravagance, if he has been guilty of extravagance; but I think the Premier and the Government which he leads are doing a very indiscreet act in bringing this matter before the House in the present form. Several speakers have said that the Government should bring in a Bill to regulate the expenses of Supreme Court judges. I think so too; I never could see while I was in the office why the district court judges' expenses should be regulated at so much per day and the Supreme Court judges be allowed to put down their expenses at any amount they pleased; it seemed to me unreasonable; and if it is a peculiarity of the Bar derived from English practice, the sooner it is abolished and the expenses regulated by statute the better. That is what the Government should do instead of asking us to agree to a joint committee; they should take the responsibility upon their own shoulders and do what they now ask this House to do. I am extremely sorry that the motion has been brought forward for another reason. Though I have no great respect for judges as individuals, I have a great respect for the office, and I think the action the Government is taking to-night will, to a certain extent, be the means of degrading the office. What will be the result, so far as the country is concerned, regarding the vote to which we shall come to-night? No doubt hon. members opposite will say we are actuated by party motives; but I, for one, repudiate any idea of party in the vote I shall give. I would be the strongest advocate for a Bill to regulate the expenses of judges, but I am just as strongly opposed to the course being pursued by the Government. The idea in the country will be that this committee is appointed by a simple parliamentary party vote, and I think that will be the means of bringing the office of a judge—not the Northern Judge alone, but the Southern Judges also—into a slight degree of contempt; and that should be avoided, more especially by the Premier, who may himself one day, and very rightly, look forward to occupying the position of Chief Justice of this colony.

Mr. MOREHEAD: I hope I shall not be tried before him.

The Hon. J. M. MACROSSAN: The resolution itself goes much further than the Premier did in his explanation of it. As I understood him, this committee is to inquire into the travelling expenses claimed by Mr. Justice Cooper; but the resolution does not pretend to appoint a committee to inquire into travelling expenses at all; it professes to appoint a committee "to consider and report upon the several matters disclosed by the papers, and other correspondence relating to the travelling expenses." The committee is to be appointed to inquire into the correspondence and matters arising out of that correspondence, and it need not, according to the resolution, bring one single day's experience to bear upon the travelling expenses of Mr. Justice Cooper. If what the Premier stated is correct, and not the resolution—if, as he says, this committee is to inquire into the travelling expenses of Mr. Justice Cooper—then I ask you, Mr. Speaker, what necessity there is to ask the Upper House to join us in a committee for that purpose. The Upper House, or rather the Legislative Council, has never been allowed by us the slightest shadow of a right to regulate or inquire into financial matters; then why should we ask the Upper House to join us in forming this committee? I think, Mr. Speaker, it is a question of privilege—a serious question of privilege. It is a question for consideration whether in asking them to join us for such a purpose we are not foregoing the privileges we possess as the sole and only guardians of the public purse; and I should like, before I go further, to have your ruling on that point as a matter of privilege.

The SPEAKER: I may inform the hon. member that before he spoke to the question at all I had seriously considered the matter. While I do not wish to withdraw a single word of what I said on a previous occasion as to the right of the House to pass a motion of this kind, I certainly think we should be conceding to the other Chamber a privilege we have always jealously guarded if we ask for a joint committee to consider the question of travelling expenses. I have thought the matter over seriously, and it was only a moment before the hon. member spoke that I mentioned to the Clerk the conclusion to which I had arrived. I think the point taken by the hon. member for Townsville is perfectly correct, and that the other House cannot join this House in forming a committee to inquire into the travelling expenses of Mr. Justice Cooper without interfering with financial arrangements—a privilege which is the exclusive right of this Chamber.

The PREMIER: Do I understand you to rule that the motion cannot be put?

The SPEAKER: It is within the province of the House to do whatever it pleases. What I desire to impress on the House is this: If this Chamber invites the other to nominate members to act upon a joint committee to deal with certain financial matters it will certainly be conceding its privileges to a certain extent.

Mr. MOREHEAD: Which have never been conceded before.

The SPEAKER: It will be conceding a privilege which this Chamber has always jealously guarded. Supposing a motion like this originated in the other Chamber and had been sent to this House for its concurrence, would the House for a moment have entertained it?

The PREMIER: I do not understand you to rule that the motion cannot be put?

The SPEAKER: Of course, if the House desires me to put the motion, I will do so; at the same time, I must point out that, in its present form, it will certainly be a dangerous motion to put to the House.

Mr. MOREHEAD said: Mr. Speaker,—Rising to the question of privilege, I think the leader of one section of the House—the Opposition—has a right to speak on a matter affecting the privileges of the whole House.

The PREMIER: What is the question?

Mr. MOREHEAD: A question of privilege raised by the hon. member for Townsville, on which the Speaker has given his opinion. Now, sir, I would ask this House whether it is prepared to go on with the motion—at any rate in its present shape—after what has fallen from the Speaker. Surely both sides of the House, irrespective of politics, are determined to uphold the privileges of this Chamber, and if through an accident or any default—no matter on whose part—a motion is likely to be carried which will impair the privileges of this House, I think we should one and all put a stop to it. This is not a party question; it has ceased to be a party question, and has become a question of the privileges of this House. I am perfectly certain, sir, that you are right in your expression of opinion that if we allow this motion to pass as it is, it will be a dangerous infringement of our privileges. We know that in another place they are very jealous of their privileges, and I think we ought to be equally jealous of our own. After the plain way in which you have set it forth, I do hope the Premier will see his way to withdraw the resolution as it stands at present. If he wishes to go on with it, there is nothing to prevent his going on with it in another form; but I would ask him not to go on with it in a shape which might endanger the privileges of this House.

The PREMIER said: Mr. Speaker,—I wish to say a few words on this question, and to give the reasons—which I had intended to give in reply—why the other House is asked to concur in the appointment of a joint committee. I did not give them so fully before because I thought they would commend themselves to the intelligence of every hon. member of this House. The tenure of office of the judges depends entirely upon both Houses of Parliament, not upon one House alone. Now, sir, in this case one of the judges has taken up this position—that he is independent of Parliament as a whole with respect to the amount that he is entitled to spend for travelling expenses. Some people appear to think that public money can be spent in this colony without the sanction of Parliament. Now, the rule of our Constitution is that not one farthing of public money can be spent by anyone unless authorised by an Act of Parliament.

Mr. MOREHEAD: Who paid your expenses home?

The PREMIER: It sometimes occurs that money has to be spent in anticipation of parliamentary authority; the Supplementary Estimates every year are an instance of that. But to take up the position that any money can be expended otherwise than with the approval of Parliament is quite unconstitutional. Now, that being so, it might some day be a question to be considered by both Houses of Parliament what would be the proper thing to do with a judge who refused to do his work unless Parliament would waive that rule in his favour. That would be a matter to be dealt with by both Houses of Parliament, not as to the question of the proper amount to be expended, but as to the question whether it is or is not a tenable position that a judge may spend what money he likes irrespective of the sanction of Parliament. That is a matter in which both Houses of Parliament are equally concerned; because if this House laid down the rule, and maintained the rule, that a judge is bound to do his work, getting such allowance for

it as this House thinks fit to make, and the other House said, "Oh, no, that is not the rule; we shall allow a judge to decline to do his work unless he is allowed to spend as much money as he likes," then there would be a serious difference of opinion between the two Houses, and it would certainly be necessary to deal with it by legislation. Therefore, both out of respect to the other House, and out of respect to the honourable office held by the gentleman whom we have been talking about this afternoon, it appeared to the Government to be desirable to invite the other House to deal with the question which so intimately concerns them, because the ultimate decision of any question which may arise out of this must necessarily rest with them as well as with us. Therefore, I believe, in no respect are the privileges of this House departed from in asking them to concur in a joint inquiry of this kind. It is much more convenient—

Mr. STEVENSON: Mr. Speaker,—I rise to a point of order. I understand you have given your ruling already on the question of privilege; therefore, unless the hon. the Premier wishes to dissent from your ruling he cannot go on speaking to the question of privilege.

The SPEAKER: The question of privilege, I take it, has not yet been decided. When it is decided the hon. member for Townsville, who is in possession of the floor of the House, would be entitled to proceed with his speech. But the House has already listened to the hon. the leader of the Opposition on the question of privilege, and I think the hon. the Premier is now entitled to a hearing.

The PREMIER: I was about to say that in a matter of this kind it is far more convenient that the rule should be laid down in advance by an agreement between both Houses, than that there should be a difference of opinion between both Houses afterwards. For those reasons I conceive we have in no way departed from constitutional principle in asking the other House to concur in the appointment of this committee. Personally, I should very much prefer a committee of this House; but out of respect to the honourable office held by this gentleman, and out of respect to the other House, which has a joint authority with this House in all matters relating to the judiciary, I believe the Government were right in proposing the motion in this form. As to the privileges of this House as against the other House, I am sure this House has never had a more steadfast champion than myself, and I am not likely to do anything to endanger our privileges.

The HON. J. M. MACROSSAN said: Mr. Speaker,—Speaking at present on the question of privilege which I introduced, does the hon. gentleman not make a mistake in stating that out of respect to the other House, and to prevent any future occasion of disagreement between that House and this, he thought it necessary to move for a joint committee?

The PREMIER: Convenient.

The HON. J. M. MACROSSAN: Is it convenient for the hon. gentleman to move for a joint committee on every Bill that comes before this House? Is there not always a danger—if it can be called a danger—at least a chance, of disagreement between that House and this? We never think it convenient to consult them upon any occasion of the kind. The Government takes the responsibility of bringing in a Bill which passes this House and goes to the other House for their approval, rejection, or amendment. I think the position the hon. gentleman has taken up is a mistake as far as that point is concerned. Then as to the spending of money in anticipation of a vote of Parliament, what does this question

of Mr. Cooper's expenses come to but the very same thing? Mr. Justice Cooper's expenses have exceeded the vote of Parliament. The Government, in its authority delegated to it by this Chamber, passes an Executive minute paying Mr. Justice Cooper's expenses, just in the same way as the Government by its authority passed an Executive minute paying the hon. the Premier's expenses to England in anticipation of a vote of this House. I take it, Mr. Speaker, that the position of the hon. gentleman is not a tenable one, and I would beg of him to give it up. He says that personally he would prefer a committee of this House. So would I. I know the Government have power to carry any motion they please, but I ask them to carry a reasonable one, which every member of this House may at least reasonably support; and one which will not be a concession of any privileges which we possess, and of which we have never conceded either the shadow or substance before. Will the hon. member withdraw this and bring in another resolution asking for a committee of this House? He has a colleague in the other House to do the same in that Chamber, and why not do it? I think, Mr. Speaker, reason and respect for the office of judge, and reason and respect for the office which he himself holds, should make him do what I request him to do now. I am not actuated by party motives, not in the slightest degree. Therefore, I implore him not to force this upon the House. I know he can force it. I know that he has a majority strong enough at his back to enforce it; therefore I ask him not to give up the privileges we possess—not even in appearance to give them up. By carrying this resolution he does so, and I think, Mr. Speaker, that he could withdraw the motion with no loss of dignity on his part, after the expression of opinion which you have given as to the terms of the resolution. I have spoken on the question of privilege, and I shall conclude what I have to say when speaking on the main question.

Mr. LUMLEY HILL said: Mr. Speaker,—I think it right that this question of privilege should be decided. I maintain that your ruling is perfectly correct in this respect: that by passing the motion we should be surrendering some of our privileges to the Upper House, if we invited them to join us in this conference dealing with the expenditure of money. I myself have been once before on a joint conference which had to deal with a money matter, though I had used every effort then against the object that the conference was appointed to secure. The conference I refer to was on the question of payment of members, when I myself, an opponent of the system, was a representative of this House, and had to defend our privileges. I maintained that the Upper House has no right to interfere with our finances, and in interfering with the payment of members they were wrong. However, I say this: that the Premier did not put the exact construction upon the position of Mr. Justice Cooper. He may arrogate to himself the position that he is independent of all parliamentary control, but if he does I shall be the first man to endeavour to teach him that he is not; but he may take this stand: that he does not acknowledge the position which was taken up by the head of the department, which is supposed to control the law courts. He does not acknowledge the right of the Attorney-General to dictate to him what he shall or shall not spend. If we pass a statute law in this House limiting his expenditure to so much he must abide by it or go—either resign or be dismissed. He will either get one or the other if I have anything to say to it, but I say the Government are now in the position of a man who authorises an agent to administer

his business. Mr. Justice Cooper has *carte blanche* to draw what he pleases, and in the opinion of many people he has exceeded the due allowance, but the Government were and are bound to cash his cheques just as I should be obliged to honour my agent's cheques if I gave him authority to draw. Of course I might have to discharge him for drawing too much, but I must honour his cheques, and that is the common-sense view to take of this question.

The SPEAKER: The hon. member must pardon me for interrupting him, but it is not in order, on a question of privilege, to discuss the main question. The question is one of privilege, and before the debate can proceed the matter must be decided.

Mr. MOREHEAD: Speaking to the question of privilege—

The PREMIER: The hon. member has spoken.

Mr. MOREHEAD: I can speak as many times as I like to a question of privilege. The Premier ought to know that.

The PREMIER: I was just going to ask permission to speak.

Mr. MOREHEAD: Oh! I beg your pardon.

The PREMIER: I wish to say a word or two further. One of the reasons which induced the Government to adopt this form was that the committee might be divested of all suspicion of party politics. The proposed constitution of the committee of this House was made specially devoid of partisanship, and only one member of it up to the present time has indicated anything like partisan feeling.

Mr. LUMLEY HILL: I have not indicated it.

The PREMIER: I did not refer to the hon. member. I have not the least idea who the committee will be in the other Chamber, but I am quite sure that the joint opinion of five members selected from each House will be an opinion which would command respect in both Houses of Parliament and the country.

Mr. MOREHEAD said: Mr. Speaker,—The remarks just made by the hon. gentleman, although very nice, do not touch the question at all. The question is one of privilege—does this resolution affect our privileges or does it not? You, sir, have properly decided that it does. We do not care who are going to be appointed by the other Chamber or by this Chamber, so far as the point raised by the hon. member for Townsville is concerned. You have said that this resolution affects our privileges, and the remarks made by the Premier are like throwing dust in the eyes of those who read his speeches or those who disagree with him. We have a distinct enunciation from you, Mr. Speaker, that this resolution endangers the privileges of this House, and the question is—Are we going to pass the resolution in its present form, when it can be so easily amended, and endanger our rights; or are we going to postpone it? I think there can be no doubt as to which is the wiser course.

Mr. HAMILTON said: Mr. Speaker,—It matters not to us the reasons that induced the Premier to bring forward this motion, as we have our opinions upon the reasons given. You have given a certain ruling now and your ruling is—

Mr. STEVENSON: The Speaker says he has not given a ruling.

Mr. HAMILTON: Well, sir, you have spoken so distinctly on the subject that there can be no possible doubt as to what your ruling will be. The Premier appeared to consider what you said was a ruling, because he stated that, although you might rule that as a question of privilege, we would be conceding our privileges

to the Upper House; yet he stated that that would not prevent your putting the motion to the House. Certainly it would not; but by doing so we would be conceding privileges which every member of this House has hitherto jealously guarded. I have too high an opinion of hon. members to think that they will insist on sacrificing their privileges to gratify the personal spite of anyone.

The PREMIER said: Mr. Speaker,—I must ask permission to say a word more. If this were a question of how much ought to be voted annually by Parliament, it would be an infringement of the privileges of this House to ask the Legislative Council to join in their deliberations. But the question arising here is a much higher one. It is whether a judge or the Parliament is to judge this question. If the Parliament is to judge, both Houses have a voice in the matter; if the judge is to judge, Parliament has nothing to do with it. The question of privilege, it appears to me, does not arise.

Mr. STEVENSON said: Mr. Speaker,—It is quite easy for the hon. member to deal with the question without referring it to a select committee at all. If it is in the hands of Parliament he can bring in a Bill to fix the judges' expenses at so much per diem or in any other form, and he knows that perfectly well. He is simply giving an opportunity to hon. members here to insult a judge, and that is exactly what he wants to do.

Mr. KELLETT: The insults all come from that side of the House.

Mr. STEVENSON: I am sure Mr. Justice Cooper would not take as an insult anything that the hon. member for Stanley might say. I want to know, Mr. Speaker, the position in which we stand. I understood you to have given your ruling on the question raised by the hon. member for Townsville. Since then you have told us you have not given it. I should like to know whether you have or have not given your ruling.

Mr. CHUBB said: Mr. Speaker,—I understand the position to be this: A question of privilege has been raised by the hon. member for Townsville. You have given an opinion that the motion as proposed would be an infringement of the privileges of this House, because it asks the other Chamber to assist it in a matter dealing with the finances of the colony; and you have ruled that if the question is pressed it must be put. Having drawn the attention of the House to what you consider will be an infringement of its privileges you can do no more. It rests with the House to decide whether they will pass the motion or not. It is clearly a question of finance, because last session the House placed on the Estimates a fixed sum for the travelling expenses of the Northern Judge. That sum, according to the correspondence placed before us, has been exceeded, and I presume the joint committee will be asked among other things to report whether the allowance fixed by the House last year was reasonable or not. If they find it to be so, they will probably in their report say that the expenditure of the judge was excessive. That, surely, will be an expression of opinion as to the expenditure of the public funds by a committee of members of a Chamber who are supposed to have nothing to do with the finances.

Mr. NORTON said: Mr. Speaker,—I should like to know the position in which we stand in this matter. The hon. member for Townsville asked your ruling on a certain point, which he stated, and I understood that you gave your ruling upon it. Then the leader of the Opposition raised a question on a point of privilege. I should like to know what your ruling is on the point raised by the hon. member for Townsville,

It is desirable that that question should be disposed of first, and then we may discuss the question of privilege afterwards. At present we are getting into a fog.

The HON. J. M. MACROSSAN said: Mr. Speaker,—Before you give your ruling I would just remind the Premier of what he said two hours ago, before tea. It was the second time he spoke on the debate, I believe. He said that the joint committee would consider the matter of Mr. Justice Cooper's expenses, and lay down a rule. Those were his words. Now, Mr. Speaker, if we agree to a joint committee to consider that subject, I ask you, are we not conceding a privilege which belongs exclusively to this House?

The SPEAKER: I cannot add more to what I have already said when the hon. member for Townsville called my attention to the matter; and what I said then I can only repeat now—that I have given the matter serious consideration during the short adjournment, and have come to the conclusion that this resolution, in its present form, would be dangerous to the House to pass. I have also stated before that there is no precedent in England or here for the appointment of a joint committee to consider the action of a judge, and I have also referred to a precedent of our own as to the action which it was considered necessary to be taken by Parliament with regard to a judge. On that occasion it was deemed necessary to call in question the conduct of the late Mr. Justice Lutwyche, who was charged with writing letters to the newspapers complaining of the conduct of the Government with regard to his salary, and contending that he could not get justice except through the medium of the newspapers. This was brought under the notice of the Government of the day, and a notice of motion was given by the then Colonial Secretary, now Sir R. G. W. Herbert, in this Chamber for an address to the Crown for his removal. A similar notice was also given in the Legislative Council, by the late Mr. Gore, who was then Postmaster-General. As those who were members of the House at that period will remember, mutual friends intervened between the parties, Mr. Justice Lutwyche apologised for his conduct, and the motions in both Chambers were withdrawn. That is the action which has been taken by a Queensland Parliament in connection with a judge whose action it was necessary to call in question, and it is the only case which has occurred. If the House passes the motion in its present form, which it is perfectly competent to do, it will establish a precedent of its own and must accept the responsibility of it. I have discharged my duty by calling attention to the fact that, if passed in its present form, asking the nominative branch of the Legislature to deal with a subject which is exclusively the privilege of this Chamber, the resolution will be a very dangerous one to pass.

The PREMIER said: Mr. Speaker,—I adhere to my own opinion as to the advisability of putting the motion in its present form. It was not arrived at without very serious and long consideration—longer than I am sure you have been able to give to it. Nevertheless, in deference to your strongly expressed opinion, I am prepared to waive my own, and am willing to accept an amendment to the effect that it be made a committee of this House only.

Mr. NORTON: I rise to a point of order. You have decided that the question in its present form cannot be put.

The PREMIER: No.

The SPEAKER: What I said was that it would be dangerous to the House to pass the

resolution in its present form, inasmuch as it would be, in my opinion, conceding to the other Chamber a privilege which belongs only to this.

Mr. NORTON: I do not yet quite understand the position we are in. I take it that you must give a distinct ruling on the questions raised by the hon. member for Townsville. If that ruling is in accordance with the point of order raised by the hon. member for Townsville, Mr. Macrossan, then the only action which can be taken by the House is for some member to move that your ruling be disagreed to.

HONOURABLE MEMBERS: No, no!

An HONOURABLE MEMBER: You move it.

Mr. NORTON: I do not intend to move it.

Mr. MOREHEAD: Speaking upon the point of privilege, we must have that point settled.

An HONOURABLE MEMBER: It is settled.

Mr. MOREHEAD: Yes; settled in a way, Mr. Speaker, but not in the way that I am sure this House and the country generally would like to see it settled; because the Premier has said that in deference to your strongly expressed opinion he would waive his objection. The House has not come to that position yet. With all due respect to you, sir, a question of privilege having been raised it must be settled. The Premier seems to think that he can dictate to the House. His words were, that in deference to your strongly expressed opinion he waived his objection; and he tries to lead the House to believe that from his erudition and knowledge with regard to this particular subject he knows better than you do. Still he shifts from the position which he found, I suppose, untenable, in a way that does not commend itself much to the dignity of his position, or of yours, or of this House. I think it would have been much more dignified if he had simply said he believed you were right, which I knew all along you were, and that he was wrong, which I also knew perfectly well.

Mr. LUMLEY HILL said: Speaking to the point of order, I should like to know whether it is competent for the Premier to withdraw his resolution at this stage and substitute an amended one.

The PREMIER: I said I would accept an amendment.

Mr. STEVENSON said: Mr. Speaker,—Upon the point of privilege I was surprised to hear you say that it was for the House itself to decide whether any motion should be put. I have often heard you say from the chair that a motion which was irregular, moved by a member of this House, could not be moved, whether the House decided upon it or not, and I certainly think that when your ruling is asked it ought to be given without referring to the House at all. I have repeatedly heard you say that a certain motion could not be put, and I am surprised to hear you say now that any motion can be put if the House decide it can be put. If a motion is against our Standing Orders, I fancy that you should give your ruling without referring to the House at all. It is an important point.

The SPEAKER: The hon. member must have misunderstood me. I should never have made myself so foolish as to say what he says I did. There are motions which, of course, cannot be put, but, as is very well known to hon. members, points of practice arise incidentally in debate which the Speaker is called upon to decide, and there are others which can only be determined by the House itself. It must be remembered, as I have stated before, that the Speaker is but the organ or mouthpiece of the House. He has to carry out whatever the House wishes or orders. If the House

by a majority orders a certain resolution to be put from the chair it is his duty to put it. That is the way in which I wished hon. members to understand me just now. It is the duty of the Speaker to point out what the rules and rights and privileges of the House are, and it is then for the House itself to decide what course is to be taken. As far as this particular motion is concerned I cannot withdraw the opinion I have already expressed, and the leader of the Government has stated that in deference to my strongly expressed opinion he will accept an amendment which will make the resolution more in accordance with the forms and rules of the House. Mr. Macrossan is in possession of the floor of the House.

Mr. NORTON said: Mr. Speaker,—I wish to withdraw my previous remarks. I was under the impression that the hon. member for Townsville, Mr. Macrossan, had asked you for a distinct ruling, but he has since explained to me what he did ask for. I spoke under a misapprehension.

The HON. J. M. MACROSSAN said: I do not quite see through the question of privilege as you, sir, have been speaking to it. You stated just now that the Speaker was bound to put a motion from the chair if a majority of the House ruled that it should be put; but until that majority has so ruled, is the Speaker bound to do so even against what he considers the privileges of the House? Again, no majority has yet ruled that this motion should be put in the form in which it appears on the notice-paper, and the only way in which that can be done is by moving that the opinion that you have given be dissented from. You comprehend exactly what I say, I believe. In that case does it not follow that a motion of that kind should be made? I ask your ruling upon that point of order.

The SPEAKER: The House may determine to pass this resolution, notwithstanding what the ruling of the Speaker may be, but that cannot be done until a motion is carried that the Speaker's ruling be disagreed to. If that motion be carried, of course I shall have to put the resolution from the chair. That is what I meant just now by stating that if it is the will of the House the Speaker must put a motion; but, of course, that wish must be expressed in a distinct form.

The HON. J. M. MACROSSAN: According to that I am not in possession of the floor.

The SPEAKER: Yes.

The HON. J. M. MACROSSAN: I cannot be in possession of the floor.

The SPEAKER: The hon. gentleman is certainly in possession of the floor, because the House has not determined to accept the amendment to the resolution, in accordance with what the hon. the Premier has stated.

The HON. J. M. MACROSSAN: Then are we to assume, sir, that the House has agreed to the motion being put in the form in which it now appears on the notice-paper?

HONOURABLE MEMBERS: No, no!

Mr. MOREHEAD: I take it, sir, that this is what you intended to point out: that the resolution as it stands is one that you disapprove of. You still hold to that opinion, and unless a majority of the House dissent from it, it cannot be put. It seems to me to be perfectly clear.

The PREMIER: I do not know what is the object of the present discussion. I intimated my willingness, sir, to accept an amendment to the resolution if it were moved. That was in deference to your strongly expressed opinion.

Mr. MOREHEAD : Why did not you move it yourself ?

The PREMIER : I am not competent to move it myself.

Mr. MOREHEAD : Well, get one of your colleagues to do it.

The PREMIER : I have intimated my willingness to accept an amendment entirely in deference to your opinion, sir : not that I agree with it ; but none has been proposed, and if no amendment is proposed I am quite prepared to take the resolution as it stands.

The Hon. J. M. MACROSSAN : Mr. Speaker, —As I am in possession of the floor I shall continue my remarks, although I have almost lost the thread of my argument. There is a point to be considered in moving this amendment, which I intend to do, and I may say that I have consulted with the Premier on the matter. I wish to get the House out of the difficulty which I see it will be placed in by adopting the resolution as it stands upon the notice-paper. As I am not in any degree actuated by party motives—my desire being simply to maintain the privileges of this House, as I think they ought to be maintained, and as they have always been maintained hitherto—I have adopted the course which the Premier and myself have agreed upon in moving this amendment. There has been considerable discussion on the subject already, and I do not think it necessary for me to debate it any further. I am simply stating my opinion in regard to the committee of this House—that although I am taking this course, I do not entirely agree with it. I would prefer that the Premier himself should take the responsibility upon his own shoulders and do what he is now shirking—that is, throwing the responsibility upon a committee ; but as he has placed himself in a position which, if adopted, would be derogatory to this House, and inasmuch as if he adopted a different course it would possibly be considered undignified on his part, I take upon myself the responsibility of moving an amendment to his motion, which I believe he will accept. I therefore move that all the words after “that,” in the 1st line of the resolution, and the words “of” and “joint,” in the 2nd line, be omitted.

Question—That all the words after the word “that” in the 1st line, and the words “of” and “joint” in the 2nd line, be omitted—put and passed.

The PREMIER : I beg to move that the words “be appointed” be inserted after the word “committee” in the 2nd line.

Mr. NORTON : Before that amendment is put, may I ask the hon. gentleman what other amendments he intends to propose ?

The PREMIER : That is all in the 1st paragraph. I will substitute another for the 2nd and 3rd paragraphs.

Mr. MOREHEAD : I would like to know, Mr. Speaker, if the hon. gentleman has fully considered the effect of these alterations. Does he intend now that there is to be only one committee to inquire into the conduct of Judge Cooper ? Is that the intention of the hon. gentleman, or does he intend that the other Chamber shall also appoint a committee to inquire into the matter ? Because if he does the same difficulty will arise. If a separate committee is to be appointed in another place to deal with exactly the same supposed charges the same difficulty will arise. I think I am right in asking that.

The PREMIER : The hon. gentleman is in error. We have no control over what may

1887—M

happen in the other House. If they choose to appoint a select committee they can do so. If any action taken by them on the report of a select committee infringes upon our privileges, we can deal with it. All I ask now is that a select committee of this House alone be appointed. That is the only matter now before the House.

Mr. MOREHEAD : Then I understand that the hon. gentleman abandons the Upper House.

The SPEAKER : I have some little difficulty in regard to the amendment, because I can hardly think that the Premier is in a position to move an amendment, having spoken on the late question.

The PREMIER : I thought that objection might arise ; but I am speaking upon the amended motion. The motion having been altered is no longer the same one.

Mr. LUMLEY HILL : I would like to know the whole of what is coming.

The PREMIER : That is all of it.

Mr. LUMLEY HILL : I should like to see a little further, because it strikes me we may possibly fall into a trap here, not knowing what we are doing. I want to know if the Premier is prepared to name the committee and go on with it.

The PREMIER : Yes, I am.

Mr. LUMLEY HILL : Is the Premier going to propose the committee as it stands now, or appoint it by ballot, because that might come in afterwards ? For my part I am not at all anxious to sit on the committee, and I hope that my name will be left out ; though, as I said before, I have no intention of flinching from it.

Amendment put and passed.

The PREMIER : I beg to move that all the words after the word “that” at the beginning of the 2nd paragraph to the end of the motion be omitted, with a view of inserting the words “such committee shall have power to send for persons and papers and sit during any adjournment of the House, and shall consist of the following members—namely, Mr. Aland, Mr. Foote, Mr. Lumley Hill, Mr. Macrossan, Mr. Morehead, Mr. Nelson, and the mover.”

Mr. MOREHEAD said : It must be patent to every member of the House that the Premier has completely changed front since he introduced this resolution. Not only has he yielded the obvious mistake he made in trying to get the Upper House to interfere with a matter in which they have no right to interfere, but he suddenly rises out of his place and, accepting the altered position of affairs, he also alters the *personnel* of the committee, not by putting anyone off but by adding two members to it. If the hon. gentleman wishes to carry this he should give the House an opportunity to consider it—at any rate until to-morrow—to see whether this change should be accepted by members on the other side, and be discussed by members on this side. It is a perfectly changed set of circumstances. The Premier before, to-night, proposed a joint committee of the two Houses to deal with certain matters affecting Mr. Justice Cooper. This is altogether altered, and the members of the other Chamber, who were at first supposed to be interested in this matter, are to be cut adrift. I ask the head of the Government if he intends to follow this up or if he is prepared to give good and sufficient reasons for altering his opinion and for altering the number of the committee ?

The PREMIER : Because I think five an inconveniently small number.

Mr. MOREHEAD : I think five a very good number.

The PREMIER: Then move an amendment in the number of the committee.

Mr. MOREHEAD: I will leave it to the hon. gentleman to amend his own motion. I think the five originally proposed sufficient to deal with the matter, should it be delegated to them by this House. The hon. gentleman has abandoned the members of the other Chamber, and let them go into space; yet we know that no action can be taken respecting the conduct of a judge of the Supreme Court which is not initiated and carried to an issue by both branches of the Legislature. I doubt very much whether this motion can be put at all, as any action taken in the nature of an inquiry into the character or qualifications of a judge must be taken, in England at all events, by both Houses. The Premier evidently recognised that principle and knew it existed, but he mixed the two Houses up in a way that has been shown to be improper, and he has consequently had to suffer a rather ignominious defeat. Now he leads us to believe that he does not know what they may decide to do in another place, but he is only going to deal with the matter so far as the Legislative Assembly is concerned. I do hope that if an inquiry is to be made into the character and qualifications of a judge it will be by both branches of the Legislature, and that the precedent will not be created of dealing with such a matter by only one branch of the Legislature. I trust the Premier will see that a committee is appointed on the same lines by members of the other Chamber to carry out a similar inquiry. I hope he will see to that, for the sake of the high official who, I take it, is going to be put upon his trial.

Mr. W. BROOKES said: Mr. Speaker,—I defy any mortal man to make head or tail of the last speech of the leader of the Opposition. A more cavilling, captious, fractious, disputatious speech I never heard in all my life. First of all he urges the Premier to abandon the Upper House—that is the phrase he uses—and then, when the Premier brings the matter back to be dealt with by this House, he complains. There is no pleasing the hon. gentleman. Why should we adjourn, and why is it so great an offence to change the *personnel* of the committee? I do not think the House will pay the least attention to the speech of the leader of the Opposition, even supposing that they can understand it.

The Hon. J. M. MACROSSAN said: Mr. Speaker,—I would much rather that the Premier would leave my name off this committee. I do not wish to be on it at all, as I have plenty of important business of my own at present to attend to. I do not want to be forced to attend here in the morning as well as in the afternoon. As there seems to be some objection to the addition, I shall propose an amendment to it.

The PREMIER: There should be seven.

The Hon. J. M. MACROSSAN: I do not think there is any magic in that number any more than in five; so long as the number is an odd one it will be sufficient. I do not think the last two names added to the committee would much affect its deliberations, and I therefore move that the names of Mr. Foote and Mr. Macrossan be omitted, leaving the committee as it was originally intended.

Mr. FOOTE said: Mr. Speaker,—I thoroughly agree with the hon. member for Townsville that the names of Macrossan and Foote should be omitted. I thoroughly understand him, and he thoroughly understands me. If we did act on the committee, though we might not do much good, we should not do much harm. If appointed we should, I trust, investigate matters tho-

roughly; for my own part, I can only say I should do so. The hon. gentleman may think I am too great a partisan to be appointed on the committee, and I can only say that if he was on the committee I should not trust him very far.

Question—That the words proposed to be omitted stand part of the question—put and negatived.

Question—That the words proposed to be inserted be so inserted—put.

The Hon. J. M. MACROSSAN said: Mr. Speaker,—As the hon. member for Bundamba is in accord with me that there would not be much harm in leaving us both off the committee, I beg to move, as an amendment, that our names be omitted. The hon. member is mistaken if he thinks for a moment that I moved the omission of his name because I considered he would be too strong a partisan. It is simply because I have not time to attend to the matter myself, and his name and mine were the last added to the list of the committee.

The PREMIER: I hope the hon. member will not press his motion. It is a committee of very great importance, and the subject upon which they will be asked to deliberate requires all the consideration that numbers can give it. I think it would be a mistake to have so small a committee as five on such a subject. I feel, for my own part, that the deliberations will be strengthened by the names proposed to be added to the committee. I think it a mistake to have only a few members on a committee of this sort. I hope, therefore, the hon. member will not press the reduction of the numbers of the members of the committee, and that if we cannot have his own name upon it we may have the name of Mr. Donaldson, or Mr. Ferguson, or any other member on the other side who has had experience in this House. I am only anxious to get a committee whose opinion will command, from the various views represented on the committee and the care they will give the subject, the respect of this House and the country.

Mr. LUMLEY HILL said: Mr. Speaker,—The matter before the House has now assumed such a different aspect that I really think it would be better if the debate were adjourned, and other business gone on with, so that we may consider the question in cold blood. The Premier has said that there is safety in numbers, but I have no doubt that he has also heard before now the other proverb, that "too many cooks spoil the broth." I think that five members on the committee will be enough. I wish to goodness that my name had never been mentioned in connection with the committee. If it was not that I should feel that I was flinching from and shirking my duty in not consenting to sit on it, I would have refused at once. I should, however, like to have an opportunity of considering the situation in cold blood before the business is settled for a time. I, therefore, think it is a very fair request to make that the debate should be adjourned. I may mention that I am a very busy man myself, and am particularly busy just now, having a large amount of arrears of private and public business to make up. I have been away from the colony for some months, and have only just got back, and I do not want to sacrifice all my mornings for perhaps two or three or four weeks on a committee of this kind, especially recognising, as I do, how futile the work will be, as the whole matter will have to be thrashed out again in the House. I think hon. members would deal with the matter more calmly and deliberately if the debate were adjourned, and we had an opportunity of considering the altered position over to-morrow or the next day.

Mr. HAMILTON said: Mr. Speaker,—I do not see what magic there is in the number seven. I think five members can investigate this matter just as easily as a larger number. As to the report having more weight if drawn up by seven members than it would have if drawn up by five, that is not likely to be the case, because this House does not accept the report of a committee unless it agrees with the evidence.

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

AYES, 27.

Sir S. W. Griffith, Messrs. Rutledge, Dickson, Dutton, Moreton, Sheridan, Foxton, Kelleit, Foote, Morgan, Grimes, S. W. Brooks, Ancear, Hill, Salkeld, Bailey, McMaster, Wakefield, Bulcock, Buckland, Campbell, Jordan, Isambert, Mellor, Aland, W. Brookes, and Fraser.

NOES, 12.

Messrs. Norton, Morehead, Chubb, Macrossan, Nelson, Donaldson, Pattison, Ferguson, Stevenson, Hamilton, Lalor, and Adams.

Question resolved in the affirmative, and amendment put and passed.

Mr. NORTON said: Mr. Speaker,—I do not wish to further occupy the time of the House. I have already spoken on this subject, and merely wish to say now that all the arguments I used against the appointment of a committee as originally proposed apply equally to the appointment of this or any committee.

The PREMIER said: Mr. Speaker,—I wish to say a few words in reply if no other hon. member wishes to speak.

Mr. MOREHEAD: I have something to say.

The PREMIER: Then I will wait till the hon. member has spoken.

Mr. MOREHEAD: After you.

The PREMIER: According to the ordinary courtesy of Parliament the mover of a motion is entitled to reply. I am quite aware that it cannot be insisted upon; but I ask if any other hon. member desires to speak before I have accorded to me the usual courtesy.

Mr. MOREHEAD said: Mr. Speaker,—I do not wish to do anything the Premier might contort into doing an injustice to him or interfering with any privilege the mover of a motion may have. I was not going to say anything with regard to the hon. gentleman, so possibly he will not say anything in reply to me; I was only going to refer to the language used by the hon. member for Maryborough, Mr. Sheridan, who is, I suppose, in the inner circle. I suppose the Government have taken him into their confidence, seeing that he was Postmaster-General for a considerable time, and occupies an important position in this House in consequence. That hon. gentleman has applied the words "contumacious conduct" to a judge, no such words being contained in the resolution either in its present form, or as it was first brought before the House; and I think I should not be doing right did I not call attention to the fact that he has used language, in regard to Mr. Justice Cooper, which has not been used by any member of the Government, and not by any other member of this House. Every hon. member, except the hon. member for Maryborough, Mr. Sheridan, has confined himself very closely to the subject-matter of the resolution. That was all I rose to say. I did not in any way intend to interfere with the privilege of which the Premier intends to avail himself—namely, the privilege of reply accorded to the mover of a resolution.

Mr. SHERIDAN said: Mr. Speaker,—I used the word "contumacious"—

Mr. MOREHEAD: You probably do not understand its meaning.

Mr. SHERIDAN: I do. It applies to you very materially.

Mr. MOREHEAD: Are you addressing the Speaker? You have no right to address such a remark to the Speaker.

The SPEAKER: The hon. member must address the Chair.

Mr. SHERIDAN: I was addressing the hon. member for Balonne. The word "contumacious" always occurs to me when I hear him speak, because he is always contumacious—he is never happy except when obstructing something or uttering some witticism which he fancies people will laugh at. He has a great deal of ability, but he always spoils it by his levity. His conduct is more befitting a clown at a circus than an hon. member of this House. I used the word "contumacious," but not in reference to Mr. Justice Cooper.

Mr. MOREHEAD: You did.

Mr. SHERIDAN: I have no personal feeling against Mr. Justice Cooper; on the contrary, I am glad that it is proposed to appoint a committee, because I believe he will come out of the inquiry with all honour.

Mr. MOREHEAD: I rise to a point of order, Mr. Speaker. The hon. gentleman applied the term "contumacious judge" to Mr. Justice Cooper—I took the words down—and every hon. gentleman present knows that he used the words.

Mr. SHERIDAN: I flatly deny it, Mr. Speaker, as applied to Mr. Justice Cooper. The hon. member opposite is not in order; he is always out of order. I say again that I applied the term in recollection of the terrible Judge Jeffries whom I quoted when I spoke previously. I did not even apply the word "political" or "persecution" to Mr. Justice Cooper; but the leader of the Opposition, early in the debate, said that Mr. Justice Cooper was the subject of political persecution. I denied that, because I did not believe he was. As I tried to explain, there must be two sides to a persecution. A man cannot be persecuted unless he is suspected; and I am not aware that Mr. Justice Cooper was ever suspected. The hon. gentleman opposite too frequently in this House tries to give me personal annoyance, and I give him notice now that on every occasion he dares to mention my name I will reply to him. I will not stand the buffoonery of a man like that.

Mr. KELLETT said: Mr. Speaker,—It has often been said here and elsewhere, "The Lord deliver me from my friends!" and I can only say that anything unkindly said against Mr. Justice Cooper has been dragged out by the remarks of the leader of the Opposition. At first the motion was dealt with quietly and fairly, but the personalities of the leader of the Opposition gave rise to ill-feeling, and the only wonder is that stronger remarks have not been made. I feel sure that when Mr. Justice Cooper reads the debate to-morrow he will have the common sense to know that no man ever suffered so much from his friends as he has done to-night.

Mr. HAMILTON said: Mr. Speaker,—I notice that the last two members who spoke and attacked the leader of the Opposition took care to do so after he had spoken.

Mr. KELLETT: One of them is not afraid of him at any rate.

Mr. HAMILTON: I think the leader of the Opposition was perfectly justified in his remarks

regarding the hon. member for Maryborough. I understood him to say that the judge was contumacious. He also actually accused Judge Cooper of being a friend of his, and that naturally irritated the leader of the Opposition. One of the great objections to this motion was the form in which it was introduced, because it appeared to be a motion for a committee to consider and report upon, not the travelling expenses of Judge Cooper, but matters disclosed by the papers and other correspondence relating to the travelling expenses. However, the Premier attempted to dispose of the objection by informing us that it was simply to inquire into the question of travelling expenses; and when the leader of the Opposition got up he asked the Premier if he would repeat that statement. The Premier would not, but said, "I do not think it necessary that any statement made by me requires confirmation"—intensifying the impression which he had already conveyed to the House that the committee was only to inquire into the question of travelling expenses. If therefore, after the House has had that impressed upon it, this inquiry takes a wider form, we shall know what conclusion to arrive at.

Mr. DONALDSON said: Mr. Speaker,—I certainly do not like the course that has been taken by the Government in appointing a committee to do duties that properly belong to themselves. That is the exception I take to their present course. Whilst I like the present motion far better than the one originally introduced—which would have received my most strenuous opposition, for reasons which have already been given, and which I need not now repeat—I have always held that the Government should know their own minds sufficiently, and be sufficiently strong in their position to know whether the Supreme Court judges spend too much money or not. I, for one, would certainly give them every fair support if they would try and limit an undue expenditure. It is their duty to try and conserve the public revenue of this country as far as they possibly can, and when any person tries to go beyond expenditure that is fair and reasonable it is their duty to try and prevent it. Now I am not going over the whole of this question, but I certainly feel very little sympathy with the Premier himself in this matter. About two years ago, when the House took exception to the expenditure of Mr. Justice Cooper, he had no better defender in the House than the Premier himself, and I remember one remark the hon. gentleman made on that occasion. It was this: "He trusted the day was far distant when a judge of the Supreme Court of this colony would be called on to give an account of his expenditure." I will not now refer exactly to the time that was said, or to the *Hansard*, but the words are distinctly impressed on my memory, and I am perfectly certain I am not misquoting the hon. member in referring to the remark he made at that time. I thought at the time that the defence was a most unjust one to come from that hon. gentleman, and I said further privately, that it was astonishing how lawyers would defend each other. Where is that defence now? He has altered that opinion, but instead of having the courage of his own opinion, and taking the action he strongly approves of, he tries to do it through a committee of this House. Now, that is certainly shirking a responsibility. I shall certainly have more to say when the report of this committee is furnished to the House. I have no desire to prolong the debate at the present time, but I could not resist the temptation of informing the hon. member how he has changed his opinions since two years ago.

The PREMIER said: Mr. Speaker,—I shall not be diverted from the course I laid down in

moving this resolution this afternoon as to the mode of dealing with it. I decline to enter into the controversy which has been attempted to be raised on the other side of the House. I decline to enter into the question of political animosity which has been charged against me.

Mr. DONALDSON: I did not charge you with that.

The PREMIER: I do not refer to the hon. member. I am replying to the whole debate. I will just say a word in passing with reference to the remarks of the hon. member for Warrego. I do not remember making use of the expression he just now quoted, but it exactly expresses my sentiments. It would always express my sentiments; and I regret very much that the time has arrived, which I anticipated never would arrive, when the House would have to deal with such a question. Now, sir, in moving the resolution I endeavoured to avoid anything like animosity or any display of irritation, and I hoped my action would be met by reciprocal action on the part of the hon. members on the other side. On the contrary, they have endeavoured to introduce into this matter questions of personal rancour—personal hatred I should think, to judge by the speech of the hon. member for Balonne—matters to which I am entirely a stranger. The hon. member made use of the words "political persecution," "political and personal animosity." We are accustomed to hear wild words sometimes from the hon. member; but the hon. member for Bowen, Mr. Chubb, who certainly ought to have known better, and from whom we do expect better things, accused me of being involved in a personal quarrel with the judge. Now, sir, let me say at once that I know of no reason whatever for any animosity, either political or personal, as between me and Mr. Justice Cooper; I have not the least idea of any foundation for such a thing. The learned judge was engaged in politics for an extremely short time, and, during that period, I have not the least recollection of our coming into collision in any way even in this House. I might as well be accused of political animosity to my friend Mr. Chubb, because he has been sitting on the opposite side of the House. As to personal animosity, I am at a loss to conjecture how it could be supposed to have arisen. I am perfectly ignorant of what is suggested. I know I gave Mr. Justice Cooper his first appointment; I afterwards gave him promotion; and all the time I was at the Bar with him as his senior I did all I could to assist him. I am entirely ignorant of any personal animosity. I deeply regret that anyone apparently representing the views of the learned judge should have made in this House any suggestion of the kind. But, sir, surely in the position I have the honour to occupy, I can be trusted to be actuated by higher motives than personal feeling in dealing with any person whom it becomes my duty to deal with; surely it is only very mean minds—I think the meanest of minds—that cannot conceive of any higher motive than personal feeling. I do not understand the imputations of those gentlemen.

HONOURABLE MEMBERS: Oh! Oh!

The PREMIER: I know there are hon. members opposite who are able to understand nothing else but personal feelings—who are incapable of rising to any higher conception of duty than the motives they impute to others; but for myself I do not understand the object of imputing such motives. It is the duty of the Government at various times to do unpleasant things. I have had many unpleasant things to do, and being engaged in a correspondence such as I have been engaged in

in this matter has been one of the most unpleasant things I have had to do. It was not a pleasant thing to bring this motion before the House, but it was, or appeared to the Government to be, my plain duty to do it. I should have very much preferred that somebody else had brought this matter before the House; I should much have preferred that somebody else should have been a member of the committee; but, occupying the position I do, I should be flinching from my duty if I did not do it. I am bound to take the inconveniences with the conveniences—if there are any—of being in office. Now, sir, so far as I am concerned, I am anxious that this matter should be investigated by a tribunal absolutely devoid of any suspicion of political bias, and the form in which the motion was originally introduced would certainly have secured such a tribunal. It is a most unfortunate thing that there should at any time be a conflict between the judiciary and the Executive. There may be a conflict between the judiciary and Parliament; that is contemplated by the Constitution. I think, therefore, the Government are in no way shirking their responsibilities when they seek to avoid a thing which is deprecated by all persons who love constitutional government—a conflict between the Government and the judiciary—and ask that a question which has arisen between the judiciary and the Parliament should be settled as far as possible between the judiciary and the Parliament. Therefore we are shirking no responsibility when we seek to avoid the performance of a duty which may be cast on the Government as a last resource, but which I think may in the meantime be more conveniently performed, with less suspicion of undue influence or undue motives, without degenerating—as I trust it never will—into a conflict between the Government and the judges. I have given reasons which I think are sufficient for passing this motion. I decline to say more than I have done. As for the accusations which have been made against me, I did not refer to them in moving the resolution because I did not think it would occur to any member of this House to descend—I do not like to use too strong a word—I did not think any hon. member of this House would have been guilty of the attempt to introduce or foment a quarrel between a judge and any member of the Executive or Parliament. I regret to say that it has been deliberately done this evening; but let me add that it has been done entirely without success so far as I am concerned. I have no more feeling of animosity or dislike towards Mr. Justice Cooper than I have,—I will not say towards any member on the other side of the House, because there are some members on the other side of the House for whom I confess I do not entertain the feelings of warmest admiration—I do not include the hon. member for Balonne as one of them—but I say that I entertain no more feeling of animosity—political, personal, or anything else,—towards the gentleman whose enemy I have been accused of being, than I do towards my honourable and learned friend, Mr. Chubb.

Question, as amended, put; and the House divided:—

AYES, 23.

Sir S. W. Griffith, Messrs. Rutledge, Dickson, Dutton, Moreton, Sheridan, Foxton, Kellett, Foote, Salkeld, Bailey, McMaster, Wakefield, Bulcock, Buckland, Jordan, Isambert, W. Brookes, Fraser, Annear, Grimes, Morgan, and S. W. Brooks.

NOES, 12.

Messrs. Norton, Chubb, Nelson, Morehead, Adams, Hamilton, Pattison, Ferguson, Lumley Hill, Donaldson, Lalor, and Stevenson.

Question resolved in the affirmative.

DIVISIONAL BOARDS BILL.

COMMITTEE.

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

Preamble postponed.

Clauses 1 to 5 passed as printed.

In clause 6—"Interpretation"—the subsection—

"Rateable Land"—Land liable to be rated under the Valuation Acts"—

was amended to read—

"Rateable Land"—Land which by the Valuation Acts is declared to be rateable."

Clause, as amended, passed.

Clauses 7, 8, and 9 passed as printed.

On clause 10—"Assets and liabilities of severed municipality to devolve on division"—

The PREMIER said that since the clause was printed doubts had arisen in a distant part of the colony as to whether the language was sufficient to cover power to realise the assets. It was rather a nice point, and it was desirable to remove the doubt by inserting words to make it quite clear. He moved that the clause be amended by inserting after "municipality" the words "and all the rights, powers, and authorities of the municipality in respect thereof."

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

Clause 11 passed as printed.

Clause 12—"Apportionment of assets and liabilities of divisions when divided, or boundaries changed"—was passed with a consequential amendment, bringing it into consonance with clause 10, as amended.

On clause 13, as follows:—

"Every division shall be governed by a board composed of not more than nine members, and not less than three members, as the Governor in Council may from time to time declare by Order in Council. If the division is subdivided, the Governor in Council shall from time to time in like manner assign the number of members for each subdivision. The number so assigned shall not be more than three for any subdivision, and need not be the same for each subdivision.

"If the division is not subdivided the number of members shall be three, six, or nine."

The PREMIER said in this clause it was proposed to substitute an Order in Council for Proclamation as the mode of constituting a division. The last two lines were new. It had always been assumed that the number of members should be three, six, or nine.

Clause put and passed.

Clause 14—"Every board a body corporate"—put and passed.

On clause 15, as follows:—

"Every male person who is a natural-born or naturalised subject of Her Majesty, and who is a ratepayer of a division, and is not under any of the disabilities hereinafter specified, shall be qualified to be elected and to act as a member of the board of such division, but so long only as he continues to hold such qualification.

"Provided that no person shall be qualified to be elected unless before noon on the day of nomination all sums then due in respect of any rates upon land within the district for the payment of which he is liable have been paid.

"And provided that any male person who is a natural-born or naturalised subject of Her Majesty, and is an occupier or owner of rateable land within the district, and is not under any of the disabilities hereinafter specified, shall be qualified to be elected and to act as a member of the first board of the division.

"When a division is subdivided it is not necessary that the qualification should arise in respect of land within the subdivision for which the member is elected."

The PREMIER said there were some verbal alterations in the clause intended to remove some ambiguity in the previous Bill.

Mr. PATTISON said it had been mentioned that under that clause a Chinaman might become qualified to be a member or chairman of a board. He did not know whether that was intended or not. At any rate, it would be as well to prevent it. It would be a step in the direction of anti-Chinese legislation.

The PREMIER said that under our local government system naturalised Chinamen were eligible, but he believed there was only one or perhaps two instances of their being elected—at Maryborough and Cooktown. A naturalised Chinaman who was a ratepayer was qualified to be elected.

Mr. NORTON: South Sea Islanders?

The PREMIER: A South Sea Islander could not be naturalised. Before a Chinaman could be naturalised he must have resided three years in the colony, be married, and his wife must be living here; so that he did not think it was worth while amending the clause to meet such cases.

Mr. NORTON: Then if he is a widower he cannot vote?

The PREMIER: Once he is naturalised it does not matter how soon his wife dies afterwards.

Mr. CHUBB said he wished to draw attention to what appeared to him to be an anomaly in connection with the second paragraph of the clause. It provided that no person should be qualified to be elected unless all rates due were paid before noon on the day of nomination. That was right enough. Then by the 43rd clause the nomination of such person must be made by not less than three persons entitled to vote at such election, and the nomination must be delivered to the returning officer before 4 o'clock on the afternoon of the day preceding the day of nomination. Then by clause 28 "no person shall be entitled to vote unless before noon on the day of nomination" all rates due had been paid. There was an inconsistency between the 43rd and the 28th sections, and he mentioned the matter now so that it might be considered.

The PREMIER said noon on the day of nomination had been the time fixed for a long time by the Divisional Board Acts, and he did not care to alter it unless some very good reason were given for it. They might make it 4 o'clock on the previous afternoon. Some hon. members who had experience in regard to divisional boards would be able to say whether there would be any advantage arising from the change.

Mr. PATTISON said the usual practice was that the nominations should be in the hands of the returning officer at 4 o'clock in the afternoon, although the actual nomination was not until noon next day.

Mr. CHUBB said, supposing the nomination were declared by the returning officer on the second day of a month, the nomination papers would have to be in on the afternoon of the first, and if the persons who nominated a candidate had not then paid their rates, they could not afterwards make that nomination good by paying up by noon on the following day, which was the qualification provided by clause 43.

The PREMIER said they must see that the nominators were qualified to vote, but it might be convenient to leave it till noon next day.

Mr. GRIMES said it had worked awkwardly in some divisions, through the voters' lists not being able to be made up until the day of the nominations. The persons who had come forward as

candidates for divisional boards had had to go to the clerk and ascertain whether those who had signed their nomination papers had paid their rates. If the voters' lists were made up previous to the nomination, of course candidates would have an opportunity of getting those lists, and would know at once if their nominations were formal. Besides, it necessitated supplementary voters' lists being made out. They made one list up to the day of nomination, and then had to make out supplementary lists after that time. He had known lists to be sent round just on the day before the poll, and it was extremely unfortunate and led to confusion. It would be better to fix the time a little earlier than noon on the nomination day.

Mr. PATTISON said he did not believe it would make the slightest difference to the voters' lists. He thought twenty-one days was the time from the day of nomination to the day of election, and that would give plenty of time.

Mr. McMASTER said he should be in favour of allowing men to pay rates right up to the time they went to vote. It would be the means of the boards getting a large portion of their revenue in. There were many men who never thought of going to pay rates unless someone called for them, or until such time as an election came on. When an election came on there were a number who wanted to vote, and they brought their money with them. It was desirable to allow a voter to pay rates up to the time he wished to vote. He would not put him to the expense of coming the day before. The clerk had the book before him, and he should be allowed to receive rates, and give receipts, and allow men to vote. In many divisions the population was scattered widely, and a second journey would be saved in that way. He did not think it was at all likely that candidates would not find out whether the parties who nominated them had paid their rates. They would take care of that. The nomination paper came in fourteen days or twenty-one days before the day of the election, and candidates could secure a sufficient number, whose rates were paid, to sign the nomination paper.

Mr. PATTISON asked how that would work in the case of voting by post. It would not work at all then. With open voting, of course, the suggestion of the hon. member for Fortitude Valley would work; but in the case of voting by post, voting-papers were only sent to those who had paid their rates, and hence the difficulty.

Mr. MORGAN said that, even without the difficulty suggested by the hon. member for Blackall, the plan set forth by the hon. member for Fortitude Valley would not work, as in the same division the polling places were sometimes many miles apart. He knew a division in which they were twelve miles apart, and if they allowed men to pay their rates up to the hour of voting, men might go round half-a-dozen of these polling places and pay the rates at each, and exercise the franchise at each. In order to guard against that every deputy officer would have to be supplied with a voters' list showing who had and who had not paid, and it would involve a great amount of trouble. He did not think the provision in the Bill was the best one, even in the interest of the boards. If they adopted the plan in the Local Government Act of preparing rolls at the end of each year for the following year, they might bring in the revenue pretty freely and the roll would be more reliable. The rolls were certainly not reliable now, and there was always a difficulty in getting them prepared at the time of an election; he knew that from practical experience. They might go a

little further and have the rolls prepared every half-year; it would benefit the boards and make it possible to conduct elections on a much better system than at present prevailed.

Mr. CHUBB said, admitting the difficulty in the case of voting by post, there was this to be said, that in voting by post the vote was sent to the returning officer and not to any deputy, and it might be possible for a ratepayer to enclose his rates with it. In regard to the question where there was more than one polling place a man should not be allowed to vote unless he produced a receipt for his rates.

Mr. PATTISON said a mixed system like that could not possibly work. It should be remembered that in the case of voting by post only those who had paid their rates received voting-papers, so that it would be impossible to send the rates in with the voting-paper. When an election came on there was a little excitement, and many ratepayers might pay up their rates, and the system would work well, probably, in the case of open voting; but it could not be worked in the case of voting by post.

The PREMIER said that in the case of divisions in which the voting was by post there must be some fixed period at which the list should be closed, though in respect to divisions where there was open voting it might be provided that any person showing a receipt for his rates might vote. It would lead, however, to a good deal of confusion and trouble at elections. The Bill provided for a voters' list being made out, and that, of course, meant on some particular day, as a list could never be made out if people were allowed to come in and pay their rates at any time up to the time they came to vote. The only question was, whether the list should be closed at noon on the day of nomination or at 4 o'clock on the afternoon of the day before. He did not see much difference between the two. Throwing it back for a day would perhaps throw people out for a time until they found it out.

Clause put and passed.

On clause 16, as follows:—

“No person who—

- (1) Holds any office of profit under the Crown; or
- (2) Is concerned or participates in the profit of any contract with the board; or
- (3) Has his affairs under liquidation by arrangement with his creditors; or
- (4) Is an uncertificated or undischarged insolvent; or
- (5) Has been convicted of felony, unless he has received a free pardon or has undergone the sentence passed upon him; or
- (6) Is of unsound mind;

shall be capable of being or continuing a member of a board.

“Provided that nothing herein shall disqualify any person from being or continuing a member of a board solely because he is concerned or participates in a transaction with the board in respect of—

- (1) A lease, sale, or purchase of lands; or
- (2) An agreement for such lease, sale, or purchase; or
- (3) An agreement for the loan of money, or any security for the payment of money; or
- (4) A contract entered into by an incorporated company for the general benefit of such company; or
- (5) A contract for the publication of advertisements in a public journal.”

The PREMIER said that clause, hon. members would observe, was in the same state as when it left the House last year. The Government had not adopted the amendment proposed in another place to disqualify publicans.

Mr. NORTON said there was a good deal of danger in the latter part of the clause. There had been a discussion about it before, though he

did not quite recollect it; but hon. members would see it was rather a dangerous thing to give any member of a board power to deal with the board as if he was an outsider.

Mr. GRIMES said he desired to move an amendment in the 5th subsection of the clause, if there was no amendment to be proposed previous to that. He thought it very desirable that members of public bodies should be above suspicion as much as possible. He moved the insertion of the words “or misdemeanour” after the word “felony,” in the 5th subsection. It was undesirable that one member of a divisional board should be sitting in Her Majesty's gaol while the other members were deliberating; and it was, at all events, desirable that the ratepayers should have an opportunity of choosing or rejecting him before he again took his seat on the board, after having occupied a seat in Her Majesty's gaol.

The PREMIER said there was a good deal in what the hon. member said, but he did not think that the amendment the hon. member proposed would quite meet the case. The difficulty would be better met by the insertion of the words “or is undergoing any term of imprisonment” after the word “felony.” There were many offences not misdemeanours, punishable on summary conviction, which involved imprisonment. But a man might be imprisoned for forty-eight hours only, and it would be rather hard to make him lose his seat on the board on that account; probably, however, no objection would be taken in a case of that kind. He fancied it would be better to accept his suggestion and insert the words he had mentioned.

Mr. CHUBB said if they accepted the amendment they would have to alter the last line of the clause. The term “misdemeanour” was a very comprehensive term. A man who obstructed a road might be guilty of a misdemeanour, or a man who created a nuisance or fought with another or did any person actual bodily harm, might be convicted of a misdemeanour. It would be unfair to prevent a man in some of these cases being elected a member of the board; they should modify the last line of the clause on that account. He might say there were some misdemeanours which were far more grave than felonies. Perjury was a misdemeanour, and was an offence of a very grave character, and should certainly debar a man from being a member of the board.

Mr. McMASTER said that what the hon. member for Oxley evidently wanted was to provide that a person undergoing a sentence as a prisoner should not be able to return to his seat on the board without having to be re-elected. It was only fair that he should be asked again to go before his constituents after leaving Her Majesty's gaol.

The PREMIER said the best way out of the difficulty was to adopt the suggestion he had made and insert the words “or is undergoing any term of imprisonment.” In such a case, of course, a man ought to be disqualified, but it was a question whether it should only refer to a long term of imprisonment, and not imprisonment for a day or two.

Mr. MOREHEAD said he would point out that a man, out of pure obduracy or “devilment,” might be in gaol. Take the case of the late Treasurer of New South Wales, Mr. Dibbs. Out of pure obstinacy, because he would not pay certain costs, he suffered imprisonment for twelve months.

Mr. GRIMES said he was quite willing to accept the suggestion of the Premier, and would withdraw his amendment in favour of it.

Amendment, by leave, withdrawn

The PREMIER said he believed the amendment was a good one, and would move that after subsection 5 there be inserted the words "is undergoing any sentence of imprisonment or."

Mr. MOREHEAD: Supposing a man gets forty-eight hours' imprisonment, or even twenty-four hours, and there is a meeting of the board during that time, what will happen under the amendment?

The PREMIER: He will forfeit his seat.

Amendment put and passed.

Mr. MORGAN said he would like to know whether under that Bill chairmen of boards were justices of the peace by virtue of their office?

The PREMIER: The Justices Act provides for that.

Mr. S. W. BROOKS said he wished to express his regret that the Government had not embodied in that clause an amendment which he thought was passed by the Upper House last year, and which disqualified the holder of a publican's license from sitting on a board. And in expressing that regret hon. members who knew him would know that he was not prompted by teetotal principles; he was not a teetotaler, and never had been, but he regretted that the disqualification had not been included in the Bill, because he believed it was a wise provision. If he thought there was any chance of getting it inserted he would propose it now as an amendment.

Mr. NORTON: It is no use trying.

Mr. S. W. BROOKS said the matter was well discussed last year, but because it went to the wall then that was no reason why it should not be discussed again. The provision was in the original Divisional Boards Act, and he thought it was a good feature of the Act. They all, or most of them, knew that the holders of publicans' licenses in some country places were not by any means the same sort of men as the publicans in towns, where some of them visited occasionally, and who were very respectable men; and the Committee should, as far as possible, guard against the intrusion of unworthy persons on boards. He was sure that he would not be accused of any unkindly feeling towards those men. He would move that there be inserted after the last amendment the words "is the holder of a licensed victualler's license or."

Mr. NORTON said he was under the impression that that disqualification was contained in the original Bill of last year.

The PREMIER: I think it was put in by the Legislative Council.

Mr. NORTON said he might be wrong, but as far as his recollection served him the provision was in the original Bill, and its omission was moved by the hon. member for Mulgrave. He knew that the matter had caused a great deal of heart-burning through the country. There were publicans in the country who were just as well qualified as anyone else to be members of a divisional board. If publicans were disqualified they should also disqualify the holders of wine licenses, and possibly the keepers of soft-drink shops.

The PREMIER said he found that the Bill as introduced last year did contain that disqualification, and that the hon. member who had just sat down moved its omission. There was a good deal of talk about the matter, and the omission of the disqualification was carried without division. The Legislative Council put the words in again, but they were again omitted by the Assembly without division. For himself he had always thought that the arguments against disqualification preponderated.

Mr. MOREHEAD said he should vote against the disqualification, but as it was a very thin Committee he thought it would be better to postpone the discussion.

The PREMIER said that if it was intended to discuss the question seriously it would be better to do so when more members were present. He moved that the Chairman leave the chair, report progress, and ask leave to sit again.

Question put and passed.

The House resumed, and the Committee obtained leave to sit again to-morrow.

ADJOURNMENT.

The PREMIER said: Mr. Speaker,—I move that this House do now adjourn. The business for to-morrow will be, first, the second reading of the Audit Act, and next, the further consideration of the Divisional Boards Bill in committee.

Mr. MOREHEAD: I would like to ask the Premier, sir, a question of great importance, not only to the House, but to the country at large. When does the hon. gentleman propose to introduce the Redistribution Bill?

The PREMIER: I am not prepared to give the hon. gentleman the information at this moment. The Bill is nearly ready, but wants further revision and consideration. A good deal of time is required for the preparation of such a Bill, as the hon. member is no doubt aware, because a great deal of consideration is necessary before the boundaries can be finally adjusted.

Mr. MOREHEAD: Will the Bill be introduced this session?

The PREMIER: I suppose so. There is not the slightest intention on the part of the Government to do otherwise.

Question put and passed.

The House adjourned at thirteen minutes past 10 o'clock.