Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

FRIDAY, 14 OCTOBER 1887

LEGISLATIVE ASSEMBLY.

Friday, 14 *October*, 1887.

Question.—Question without Notice.—Lady Bowen Lying-in Hospital Land Sale Bill—committee.—Queensland Trustees and Executors Society, Limited, Bill—second reading.—Claim of Mr. E. B. C. Corser. Adjournment.

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

QUESTION.

Mr. ADAMS asked the Colonial Treasurer—

1. What amount of the £10,000,000 loan was appropriated to the electorate of Mulgrave?

2. How much of that vote has been spent, and on what works?

3. What is the balance available?

The COLONIAL TREASURER (Hon. Sir S. W. Griffith) replied—

1. The only appropriation of the £10,000,000 loan is that shown in the Loan Estimates for the year 1887-8, which include four items for works, parts of which are within the electorate of Mulgrave.

2 and 3. A return is now being prepared showing how much of the loan has been spent, on what works, and the balance available.

QUESTION WITHOUT NOTICE.

Mr. STEVENS said: Mr. Speaker, I wish to ask the Premier, without notice, if he can say whether the Government intend to fill up the vacancy caused by the transfer of the Railway Arbitrator, or whether the Government contemplate altering the system of railway arbitration? I will give notice of the question if the hon. gentleman wishes.

The PREMIER (Hon. Sir S. W. Griffith) said: Mr. Speaker,—The hon. member had better give notice for Wednesday next.

LADY BOWEN LYING-IN HOSPITAL LAND SALE BILL.

COMMITTEE.

On the motion of Mr. W. BROOKES, the Speaker left the chair, and the House went into committee to consider the Bill.

Preamble postponed.

Clauses 1 and 2 passed with verbal amendments.

Clause 3—"Notice of sale by auction to be published"—passed as printed.

On clause 4, as follows:—

"Immediately after the receipt of the moneys realised by the sale of the said land, the trustees shall pay the reasonable expenses of such sale, and the costs, charges, and expenses of and attending the applying for and obtaining and passing of this Act, and shall deposit the remainder of the purchase moneys in the Union Bank of Australia, Limited, in Brisbane aforesaid, and shall not withdraw the same, or apply any part thereof, except for the purchase or for the completion of a purchase of another allotment or allotments of land in a more convenient locality, and for defraying the cost of erecting buildings thereon, and for furnishing the same in a manner suitable for the purpose of a lying-in hospital. Provided that the trustees may in their discretion withdraw the said moneys for the purchase or the completion of a purchase of a site with suitable buildings already erected thereon, or may make such alterations or additions to buildings so purchased as they may deem necessary to make the said buildings suitable for the purposes aforesaid."

Mr. W. BROOKES moved the insertion of the words "in the names of the said trustees" after the word "aforesaid," on the 7th line of the clause.

Amendment put and passed.

Mr. W. BROOKES moved the omission of the word "purpose" on the 13th line of the clause, with the view of inserting the word "purposes."

Mr. PALMER asked whether there was any occasion for naming the Union Bank, or any bank, specially?

Mr. BROOKES said he thought the reason was because the account of the hospital was kept there.

Mr. MOREHEAD said the clause provided for a temporary location of the money only. It was not to be kept in the Union Bank for all time.

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

Clause 5—"How lands to be held"—passed as printed.

Clause 6—"Power to borrow"—passed with verbal amendments.

On clause 7, as follows:—

"This Act may be cited as 'The Lady Bowen Lying-in Hospital Land Sale Act of 1887.'"

Mr. W. BROOKES said there was an alteration in that clause proposed by the select committee, but he did not know whether it would meet with the approval of hon. members. In the Bill as it passed the second reading the title was "The Lady Bowen Lying-in Hospital Land Sale Bill." There was an idea that the "Lady Bowen Hospital" was distinctive enough, and he would therefore move that the clause be amended by the omission of the words "Lying-in."

Mr. MOREHEAD said he did not see why the words proposed to be omitted should not be left in the Bill. What was relegated to the select committee was a measure to deal with the sale of land in connection with the "Lady Bowen Lying-in Hospital," and now they wished to call it the "Lady Bowen Hospital." He thought the title should not be altered.

Mr. W. BROOKES said that as a matter of fact he would rather have it as it stood before, and would, with the permission of the Committee, withdraw his amendment.

Amendment, by leave, withdrawn; and clause passed as printed.

The preamble was amended by the omission of the word "Griffiths" and the insertion therefor of the words "Griffith (in the said deed called Griffiths)"; by the insertion, after the words, "Honourable Frederick Thomas Brentnall was," of the words, "on the twenty-third day of December, one thousand eight hundred and eighty-five"; and by the substitution of the word "county" for "city."

On the motion of Mr. W. BROOKES, the CHAIRMAN left the chair and reported the Bill to the House with amendments.

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

QUEENSLAND TRUSTEES AND EXECUTORS SOCIETY, LIMITED, BILL.

SECOND READING.

On the Order of the Day being read for the resumption of adjourned debate on Mr. Chubb's motion—"That the Bill be now read a second time"—

Mr. MOREHEAD said: Mr. Speaker,—If no one else will object to the second reading of this Bill I shall do so. I think it is a most dangerous proposition. Now, I would ask any one member of this House—and we are here as representatives of the people—if he would in his will—I suppose most of us have made our wills—

nominate any such company as is proposed to be created as his executor? I do not suppose there is one member of the House who will answer in the affirmative.

Mr. CHUBB: They do in Victoria.

Mr. MOREHEAD: I have nothing to do with what they do in Victoria. I have to deal with the measure we have before us. Here we are asked to give power to a limited liability company to occupy the position of executors and trustees; a limited company, the elements of which are continually changing; and we propose to give them, under this Bill, powers which are not given to an ordinary executor under the existing law. Why, take clause 8, for instance, which has been considerably modified by the Committee, by the paid-up capital which the company shall be required to have, being considerably increased. According to that clause the total capital of the company is to be £20,000, and that is all that it is considered necessary for it to have, no matter how many and how large are the estates that the company may be called upon to administer. Suppose the company got into its hands twenty estates of £20,000 each; a total sum of £400,000 would be intrusted to this company to deal with, and all it has to show as security for that sum are assets to the value of £20,000; and it is quite possible that the parties liable might be men of straw. The Bill, as I read it, proposes to give powers to this company which are not given to executors at the present time, and concessions are made to it which are not made to executors at the present time. Under the existing law executors are compelled to file accounts every twelve months in the Supreme Court of the colony. It is certainly provided in this Bill that the company may be compelled to file its accounts, but it is not compulsory as a matter of course. Then the rates of commission proposed to be charged appear excessive. Not only is commission to be charged upon the gross estate, but also upon the income derived from the estate. What is to prevent an estate being frittered away until there is nothing left? I look upon the Bill as a very dangerous innovation. It has not been shown by the introducer of the measure, at least to my satisfaction, that there is any necessity for the existence of such a company; and I do hope that the House will not assent to the Bill being read a second time. We are told that an Act dealing with these matters is in force in Victoria and is working very well there.

Mr. CHUBB: There are three of these Acts in force in Victoria.

Mr. MOREHEAD: I do not know how long they have been in existence. We all know what enormous trouble has taken place in the past with regard to friendly societies, and the way in which funds have been abused by the directors and those who have had the management of those societies. But I look upon this Bill as being trebly dangerous—as one of so dangerous a character indeed that, at any rate for the present, we should not allow it to be read a second time. As I said before, is there one of us who, looking at the constitution of this company as shown in the Bill, would leave that company as the executor of his estate? For myself I should infinitely prefer leaving it with the Curator of Intestate Estates, who, being a responsible officer, might probably make it realise 10s. in the £1. But the directors of this company, no matter how respectable and trusted they are at present, might be changed; and we might see men of straw administering estates worth hundreds of thousands of pounds—perhaps millions—and yet individually they might be worth very little indeed. If a Bill of this kind is passed it will end in some great disaster—not to us, but to our widows and orphans. I hope the House will not consent to the second reading of so dangerous a Bill.

The ATTORNEY-GENERAL (Hon. A. Rutledge) said: Mr. Speaker,—I quite agree with the hon. member as to the character of this Bill, and I think the House will do wisely not to allow it to pass the second reading. I have very carefully considered its provisions, and I regard it in the same light as the hon. member who has just spoken, as a dangerous innovation. As that hon. member said, there is not one of us here who would allow this, or any other similar company with statutory authority, to become the executor of his will. It appears to me to be a sort of means to be provided by the Legislature by which persons who have been nominated executors, and who are not inclined to perform those duties, may shuffle out of their responsibilities by getting the company to take their places.

Mr. CHUBB: But you cannot force him to act against his will under the existing law.

The ATTORNEY-GENERAL: The Bill does not provide what should be done in the case of one executor being willing to continue to act, and the other being unwilling, whether one is to continue as executor, and the other to be released. One great argument against the Bill is to be found in the fact that this company seek to alter the provisions of the Companies Act of 1863. The Companies Act very particularly marks out the duties, responsibilities, liabilities, privileges, and all the rest of it, of companies registered under the Act; and this company start away by making a number of variations, to say the least, in the provisions of that Act. If the company received statutory powers it would be a hybrid kind of institution altogether, and, apart from the very great risk to which, I think, the estates of deceased persons would be subjected, it is highly undesirable that an institution which can give no guarantee as to the respectability of the persons who may have the management of the estates of deceased persons should be allowed to come into almost uncontrolled possession of the effects which belong to widows and children. Our Probate Act makes a provision by which it is necessary for persons administering estates to give a bond in double the sum which the estate and effects of the deceased person are shown to amount to, unless the court permits a bond in a less sum to be given. But here is a company whose total capital is £20,000, which, in the event of having to administer an estate of £50,000, would not be able to give the bond which an ordinary administrator would have to give in connection with that estate. And yet the company might get, perhaps, fifty large estates into its hands as executor, and the amount of check on a company whose total capital is not over £20,000 would be very slight indeed. I do not think we ought to be called upon to relax the ordinary safeguards which the law provides with regard to the estates of deceased persons in any such way as this. We know that the great object of companies of this sort is to make money. Ordinary executors discharge the functions which are cast upon them, not for the purpose of any personal profit at all.

Mr. CHUBB: My experience is that they always apply for commission.

The ATTORNEY-GENERAL: They may apply for commission, but we know that the amount of commission they are in the habit of receiving is nothing at all like the amount which is here provided as a regular thing. And I do think it would be most unwise on the part of the House to give its sanction to a Bill of this sort becoming law. I noticed several things in glancing through the Bill which struck

me as matters in which there might be advantageously some amendment if the Bill is to become law; but, inasmuch as I believe that the feeling of the House is that we ought not at the present time to permit a measure of this sort to appear upon our Statute-book, I do not think it necessary to take up the time of the House in criticising it in detail to the extent I should otherwise feel it incumbent upon me to do, by pointing out what I regard as defective provisions in it. I certainly cannot see any justification for the Bill. The mere fact that there are companies of this sort in existence in Victoria proves nothing. I do not see any evidence here showing the extent to which the companies said to exist there do business. Many companies may have statutory rights and exist as companies, but unless we know something about the amount of work they do, or the number of estates which pass through their hands, we cannot tell whether the experience gained under these Victorian Acts is a safe guide for us.

Mr. MOREHEAD: They are not old enough.

The ATTORNEY-GENERAL: They are not old enough. Ten years is, I believe, the age of the oldest of these companies, and that is not sufficient time for us to see the working of an institution of this kind. And even if it were, we have no information showing the experience which these companies have had. They may exist as societies upon the Statute-book, and possess these rights and privileges, but they may have done nothing at all. Nobody may have entrusted them, or some of them, with the management of estates.

Mr. CHUBB: If you read the evidence you will see that the balance-sheet of one of the companies was before the committee.

The ATTORNEY-GENERAL: That is the case of only one company. I am talking about the societies generally. We are told that there are several of these societies, and we know that in a limited liability company of this kind it only requires one dishonest manager to get control of the company's funds, and do an immense amount of injury. Even in the case of banks, with all the pains they take to secure honest officers, and with all the supervision the authorities of those institutions bring to bear upon them, they cannot escape being plundered sometimes by dishonest servants in whom they repose confidence.

Mr. CHUBB: What about dishonest executors?

The ATTORNEY-GENERAL: A man who appoints an executor chooses a person in whom he has confidence. Ordinarily the man chosen is one who feels a sort of moral obligation to discharge the functions to the best of his ability for the benefit of the estate; but here is an institution which will have no sense of moral obligation. As I said before, if unfortunately one of the managers of this society were a dishonest person he could make away with all the funds, not only of one estate, but of half-a-dozen estates, and the only redress the plundered persons would have would be to proceed against the company for the amount of their loss. I think the only justification—and even that is not a justification in my estimation—for asking the House to pass a Bill of this kind would be to say there should be no limit to the liability of the shareholders of the company.

Mr. MOREHEAD: That would not prevent the transfer of shares.

The ATTORNEY-GENERAL: It would not. Even if that were done I should object to the Bill as it is. I cannot see one redeeming feature in it.

Mr. SCOTT said: Mr. Speaker,—One point in the Bill which strikes me as requiring attention is this: Clause 20 provides that the capital shall be in £10 shares, of which not more than £5 shall be called up, but it does not say how many shares any one individual may hold; so that all the shares might fall into one man's hands. And, as far as I can see, there is no provision in it for the appointment of fresh directors should any of them resign, or sell their shares, or die. I suppose that under the Limited Companies Act there must be a certain number of shareholders.

The PREMIER: There need not be more than two.

Mr. SCOTT: Under those circumstances nearly all the shares might be in the hands of one man, who would have control of everything. All he has got to provide is £25,000, as £5 only would be called up, the other £5 being left in abeyance. And yet a company like this would have the handling of very large sums of money indeed. Supposing they had twenty, or thirty, or perhaps one hundred estates passing through their hands, it would very soon amount to two or three hundred thousand pounds, and I contend that is too much power to place in what may practically be one man's hands. I have not a word to say against the directors of this company; but they may not always be in that position. They might be gone before twelve months, or even six months, after the company was formed, and the whole affair might fall into the hands of one man, who could do exactly as he liked. I think that is too dangerous a power to give to one man.

Mr. DICKSON said: Mr. Speaker,—I think, sir, that in a matter of this sort, when legislation is invited, we ought to "hasten slowly."

Mr. MOREHEAD: And with caution.

Mr. DICKSON: We ought to proceed with caution, and possibly a little rest. I have given attention to this Bill, and coming as it does from the hon. member for Bowen, I have no doubt it has been framed in such a manner that, as a legal measure, it will stand any amount of criticism. But I look upon it in the light of the general interests of the public, and am of opinion that we should not be consulting or protecting their interests by accepting this Bill at the present time. I think it is well, Mr. Speaker, that the question should be ventilated, and I am not at all dissatisfied with seeing the Bill placed before us this session to attract public attention, to be debated, and possibly to receive a considerable amount of ventilation before it becomes law. There is a tendency at the present time for companies to undertake the functions of individuals—to relieve individuals, I may say—who are placed in the position of executors and trustees of a certain amount of responsibility and trouble which they do not care to maintain. And if it can be shown that the safety of those who are interested in those estates can be equally well conserved, that would be a strong argument in favour of entrusting companies of this character with the powers for which they ask legislation. But, at the present time, I think we ought primarily to consider whether the security offered by these companies is commensurate with the responsibility which, if this Bill pass, will be thrust upon them. I do not think it is. Trust and agency companies are of comparatively recent growth, and they ought to win the confidence of the public entirely by a long and successful conduct of private enterprise, before they come to Parliament and ask to be entrusted with the very large powers which they seek to have conferred upon them under this Bill, and the fruits of which cannot be ascertained for many years to

come. It has been observed that in Victoria there are similar companies established, but the very oldest of those companies has not yet passed an existence of more than eight years, and that is a comparatively short period of human life. It is not immediately that the real working of those companies will be exhibited; one or two generations will have to pass, probably, before it can be seen whether it is to the true interests of the public that those powers should be conferred upon a public company. I cannot see that anything which has been said by the hon. member for Bowen, or anything in the report of the committee, is of itself sufficient to justify us in conferring these extraordinary powers upon a limited liability company. I go further, and would at the present time even object to an unlimited liability company being entrusted with such powers, because an unlimited company can transfer its shares to men of no means equally with a limited liability company. I say that if a company is to take possession of estates in this way, it ought to satisfy the Government of its ability, and give adequate security to justify its being entrusted with the administration. I see nothing in this Bill that would indicate the intention of the directors to prove their *bona fides* to that extent. The present company is no doubt a very respectable company, but there is no doubt also that it is a trading company, a speculating company, a money-lending company, a financial company, and is certainly liable to all the risks attending ordinary speculations and financial transactions; and I think it would be very hazardous to entrust to such a company—primarily constituted for the purpose of financial and commercial speculation—property which might be the sole means of subsistence of widows and orphans otherwise unprovided for. I shall therefore give my vote against the second reading. I trust that the hon. member for Bowen will not think this is done from any disrespect for him. I believe he has taken very great pains with this Bill, but I think it is a matter which deserves to be very fully ventilated indeed before it is approved by the Legislature. As has been suggested to me by an hon. member of this House, this Bill, if passed, would encourage careless or negligent trustees and executors to get rid of their responsibility by surrendering their trust to a company like this. We know that the functions of trustees and executors are surrounded at times with a great deal of individual trouble and continuing responsibility, frequently without any remuneration; and many trustees and executors would be very glad to get rid of their responsibilities. That is putting it in the very mildest light. They might surrender their trust with the view of getting an honorarium from the company for the business which would accrue from the management of the estate. However, I will not pursue that argument; I will merely assume what is very natural—that many trustees and executors would be ready to hand over to a company like this, trusts that had been entailed upon them and which were found to be too onerous. Under all the circumstances I think this Bill cannot meet with our approval, because it does not furnish sufficient safeguards for the protection of those who would be chiefly interested in intestate estates or even estates administered under will. I believe that in time something of this sort will come before the public and be approved of; but in the meantime I think we may delay a little longer and insist upon further safeguards being provided. Many of us will watch with interest the progress of kindred institutions in Victoria, but until they have passed through a much longer period of existence we cannot gauge their ability or their responsibility in connection with these matters. I shall therefore be compelled, at the present time, to vote against the Bill, while I admit that the hon. member for Bowen has done good service in letting such a matter as this be debated by the House and receive the consideration of the public.

Mr. MACFARLANE said: Mr. Speaker,—The hon. member who introduced this measure used as an argument the difficulty of finding intelligent and painstaking trustees and executors. There is no doubt a great amount of difficulty, and his argument in that light is very good indeed. It would be a good thing if something could be done to improve matters in that respect, but I am afraid this Bill will not answer the purpose. The mere fact of its being a limited company is against it. As the hon. the leader of the Opposition said, no member would like to leave his estate in the hands of such a society as this, and that being the feeling of hon. members in this House, it is quite evident that the Bill, if passed in its present state, would be completely inoperative. I think the Government might take this matter up, and if a State department could be formed, supposing the State to be willing to act as trustee or executor—and I see no reason why it should not—I say I think that if a State department could be formed to work out this idea of the hon. member for Bowen, it would answer very much better than the plan he has proposed. I do not think it is any use discussing the Bill, as it is universally condemned; but I hope it may be the means of directing the attention of the Government to the matter.

Mr. ALAND said: Mr. Speaker,—The opinion of the House seems to be altogether in opposition to this Bill. Now, I can assure the House that the committee, in considering this Bill and taking the evidence of the witnesses, had a feeling that they were about to recommend a Bill which was a very important one.

The ATTORNEY-GENERAL: They did not recommend it.

Mr. ALAND: I think that, if the committee in their report do not advise the House to disallow the Bill, they to some extent favour it. However, I should like to impress upon the House that the committee in passing this Bill had some amount of diffidence in their minds about it. I know I felt each time I went to that committee that in the passing of this Bill by the House we should be committing ourselves to what was certainly of a somewhat risky nature, but I did not feel—and I think no other member of the committee felt—inclined to take the responsibility of advising the House not to pass the Bill. We preferred that the matter should come before the House, and that it should be here discussed, and the Bill accepted or rejected. I think the Committee will admit that a great deal of pains was taken by the committee in going through this Bill. We were fortunately favoured by the presence of two legal gentlemen, Mr. Chubb and Mr. Foxton, who considered the Bill very carefully indeed, clause by clause, and hon. members will see that all the amendments which have been made tend towards safety. In reference to what the hon. member for Enoggera has said about dishonest executors—I am not sure that that was the word he used—executors who did not wish to be troubled with the trust imposed upon them by the testator—being able to get rid of their trouble by handing the matter over to the society, that was a question which came under the notice of the committee, to which they gave every consideration, and which also led them to introduce the following new clause into the Bill:—

"Nothing in the third, fourth, and fifth sections hereof shall prejudice or affect the rights of any person or persons interested in the estate of any deceased

person, other than such persons as are mentioned in the said sections, to apply for and obtain probate or letters of administration with or without the will annexed in any of the cases therein mentioned."

I take it, although I may be wrong, that by that clause anyone benefiting under the will has a prior claim to the society—that is, that an executor may apply for the society to become executors; but any claimant under the will may step in and object. Of course, as the hon. member for Balonne suggested, the persons interested may be infants. But in those cases, I presume, the court would not allow this society to take the place of the executors. Certainly, Mr. Speaker, this is a Bill which laymen do not very well understand, beyond what has been pointed out by every member who has spoken, that an amount of risk really does lie in the affairs of a testator being handed over into other hands than those which he expected they would pass into. Of course we know there are risks so far as executors are concerned. We have known dishonest executors, as the hon. member for Bowen has said, and I do not think a society is more likely to behave in a dishonest manner than are executors. They run risks, and I was impressed with that point. Mr. Brown, who appeared as one of the witnesses in favour of the Bill, was questioned on that subject as follows :—

"By the Chairman: You may invest the estates which are in your hands as executor, trustee, or administrators by lending out money to applicants? Yes.

"Of course, taking the necessary security? Oh, yes!

"By Mr. Aland: But there is nothing to prevent you dealing in a speculative manner with funds? We are expressly forbidden by our articles.

"By the Chairman: That would depend, I suppose, upon the opinion of the directors, what was speculative or not? No."

I would like to say this: that the hon. member in charge of the Bill was not the drafter of it. But in committee he certainly took every pains to surround the Bill with as many safeguards as possible; and I would point out that it appeared from the evidence that persons dying wealthy had appointed the Victorian society to act as their executors. I think the name of Sir Charles Sladen was mentioned. We also had before us the prospectus of the Edinburgh society, which appeared to be in a highly prosperous condition. We had likewise the prospectuses of the Victorian companies, which hitherto, at all events, appeared to have done their business to the satisfaction of the people and to their own profit.

Mr. NORTON said: Mr. Speaker,—This matter has been brought under my notice for some considerable time, and I was disposed at one time to favour the introduction of a Bill like that brought in by the hon. member for Bowen. I may say that the more I have heard the matter discussed both inside and outside the House the more I see the difficulties there are in the way of passing a measure which will give sufficient safeguard and will satisfy the public mind. I do not quite agree with the hon. member who has just sat down that the prosperity of companies formed under similar Bills is any recommendation, because, although the companies may prosper, their clients may not.

Mr. ALAND: It shows the amount of confidence placed in them.

Mr. NORTON: They make it their business to prosper. That is their first business; the estates are the second. That is one of the greatest dangers connected with the whole thing. But I still think there is a great deal to be said in favour of a Bill of this kind. I am sorry to say I know a good many cases where, unfortunately, testators have selected friends, simply because they were friends, to act for them after their death, and they have made a very great mistake. I know a number of cases of that kind, I am sorry to say. In one case I have in my mind at present, a number of ladies were dependent entirely upon a small estate which was most shamefully sacrificed by the trustee—a gentleman holding a very high position in society now. I should have scarcely credited the facts, if I had not known that they were absolutely correct. Now, that is a sort of thing which happens over and over again; and it is the knowledge that these things do happen that makes one favour a measure of this kind. I may mention another matter in connection with the subject. A friend of mine some time ago told me that he was in difficulties in connection with his will, because he did not like to go to his own personal friends and ask them to consent to be appointed his executors in the case of his death. He himself felt what a tax it was to have to act in that capacity, and he said if a measure of this kind were passed, and a company was formed in which he could place confidence, he would very much rather go to it, and make it a simple business transaction, than ask his friends to act in that capacity. He was very anxious about the matter, and asked me to ascertain whether the company which had been registered here was in operation. When I came to make inquiries I was told that the company had been registered some time ago for the sake of securing the name, but the work it had undertaken was practically nothing. I merely refer to this matter because so much has been said in condemnation of the Bill that it almost has the appearance of a condemnation of the hon. members who were instrumental in placing the report before the House as it is. I think they deserve a great deal of credit for the trouble they have taken in the matter; but I feel satisfied, and I am sure they must feel satisfied also, after what has taken place, that it would be fatal to attempt to push the matter any further, or even to go to a division when you put the question, sir. I am sure that the question will be negatived on the voices, and if it went to a division there would be a very unfavourable majority against it.

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

CLAIM OF MR. E. B. C. CORSER.

Mr. ANNEAR moved—

That the Speaker do now leave the chair and the House resolve itself into a Committee of the Whole to consider the following resolutions, namely:—

1. That the report of the Select Committee appointed to consider the petition of Mr. E. B. C. Corser, and laid upon the table of the House on the 15th September, be now adopted.

2. That an address be presented to the Governor, praying that His Excellency will be pleased to cause provision to be made, out of the Loan vote, for the payment to Mr. E. B. C. Corser of the sum of two thousand three hundred and fifty-nine pounds sixteen shillings (£2,359 16s.) as compensation, as recommended by the said committee.

Question put and passed.

COMMITTEE.

Mr. ANNEAR moved—

1. That the report of the Select Committee appointed to consider the petition of Mr. E. B. C. Corser, and laid upon the table of the House on the 15th September, be now adopted.

2. That an address be presented to the Governor, praying that His Excellency will be pleased to cause provision to be made, out of the Loan vote, for the payment to Mr. E. B. C. Corser of the sum of two thousand three hundred and fifty-nine pounds sixteen shillings (£2,359 16s.) as compensation, as recommended by the said committee.

The PREMIER said he thought it would be better to take the resolutions seriatim, because there might be a strong feeling in favour of the second resolution, apart from the report altogether.

Mr. S. W. BROOKS said he did not know whether, if they agreed to the first resolution, that would not also commit them to the amount named in the second.

The PREMIER said it would do so, and it would be better to withdraw the first and deal with the second. He suggested that they be taken seriatim. There had been some uncertainty as to the practice in dealing with reports of select committees, but he believed it was not correct to move a resolution for the adoption of the report of a select committee except under exceptional circumstances. The report of a select committee was really in the nature of a finding as to facts, on which the House might be asked to take action; but when they were asked to act on the facts, that should not involve accepting all the findings of the select committee. The effect to be given to the report was the payment of a sum of money to Mr. Corser, and he thought that neither Mr. Corser nor the hon. member for Maryborough, Mr. Annear, cared whether the report was adopted or not, as long as the money was paid. He did not see why hon. members should trouble themselves about the abstract question of adopting the report when the real question was whether the money should be voted or not. It would simplify the question to withdraw the first resolution, and move the second one only.

Mr. ANNEAR said there was a clause in the report that greatly affected the owner of the property and also the owners of other properties, namely:—

"The committee are further of opinion that if the Government, at any time, shall fence in the resumed land, Mr. Corser will be entitled to the amount he claims as compensation for surrender—£2,000."

He should like to know from the Premier whether the Government would give a guarantee that that land should not be fenced in. If that was done there would be an end to that part of the question, and he thought it was the least the owners of the property could ask the Government to do, because if a fence were erected on any of those properties it would render the portions of land cut off utterly valueless.

The PREMIER said he apprehended the only place for a fence would be along the line of Wharf street, which he understood had been thrown open by the Government as a road. If that was so, a fence could not be put across even by the Government. If anything unreasonable were done in connection with the properties, Parliament would always be willing to intervene.

Mr. ANNEAR said that Mr. Curnow, in offering Mr. Corser £250, said that if he did not accept that amount he would fence the property. That was a threat hanging over, not only Mr. Corser, but also the other owners of property; and that threat was taken into account the other day when the case of the Bank of New South Wales *versus* the Government was tried in Maryborough; in fact, he believed it was the chief point on which the bank got a verdict. If the Premier could see his way to withdraw that threat of the Commissioner, it would be sufficient to deal with the second resolution only.

Mr. CHUBB said that there was a question of practice involved in the motion, and he doubted whether they had a right to adopt a report of a select committee which would commit the country to the payment of a sum of money on the happening of a contingency which might never happen. The select committee reported that if the Government fenced in a right-of-way they believed Mr. Corser should get £2,000, but he could not properly bring forward a claim for that damage till the injury was done. At one time it was considered that a man who sustained an injury by a trespass or a tort must have all the damages at once, but the law now was that he could get damages from time to time as they arose.

Mr. DICKSON said he hardly followed the explanation of the Premier in that matter. As he (Mr. Dickson) read the report, it seemed to him that what Mr. Corser claimed compensation for was the chance of the Railway Department fencing in a strip of land, forty feet in width, on both sides of the railway line, and thereby precluding him from access from the Grand Hotel to his wharf. He thought Mr. Corser should be protected to the extent that he ought to have a level crossing or access by gate across the railway to his wharfage property, but it also seemed to him (Mr. Dickson) that if the Government had paid for the land they should have the right to fence it; he could not see why there should be the additional penalty that the land should remain unenclosed. They had a right to enclose land for which they had paid compensation.

The PREMIER: It has been dedicated as a road.

Mr. DICKSON: That forty feet might be utilised by two lines of railway. At any rate, if Mr. Corser had access across the railway to his wharf from the Grand Hotel, that ought to satisfy the hon. member for Maryborough.

Mr. ANNEAR said the hon. member for Bowen had stated that the contingency of erecting the fence might not arise. That was the point that engaged the attention of the committee. If that contingency did not arise there could be no claim.

The HON. J. M. MACROSSAN said the Commissioner for Railways could not fence in the land without the consent of the Minister for Works. The Commissioner could not make a threat like that and carry it out on his own responsibility. He (Mr. Macrossan) thought the hon. member need not be afraid of anything of the sort being done.

Mr. SALKELD said he thought that if it was necessary to fence in the road Mr. Corser ought not to be compensated, and if it was not necessary, then the threat of the Commissioner, that if Mr. Corser did not accept the amount offered by the department the line would be fenced, was very reprehensible. It was very wrong for any Government officer to attempt to bring pressure to bear on a person in that way, and to threaten that if a certain offer were refused he would do a thing that was not required. If one part of that particular line was open to the public, he did not see that there was any necessity to fence in the other part.

The ATTORNEY-GENERAL said he might state that if he had been able to remain in attendance at the sittings of the select committee he would have endeavoured to have had the last paragraph of the report excised. He thought there must have been some misapprehension in the minds of those members of the committee who were parties to the report as it stood, when they consented to the introduction of clause 6. The Commissioner for Railways could not, under any circumstances, even if the land was not dedicated as a road, absolutely cut off the access Mr. Corser was entitled to have from one part of his land to the other part. The line went right through Mr. Corser's land, and the Commissioner under the Railway Act was bound to permit means of access to the land which was severed by the line. But in the present case there was more than a railway; there was a road. The Government had gone to very great expense in making it an admirable road; they

had spent hundreds of pounds in filling-up stuff, in making culverts, and in metalling the road. The rails were all sunk, and even if the road were all lines, drays could travel over it quite easily. In addition to that, lamps had been put up for the convenience of people who used the road at night. So that there was abundance of evidence of the dedication of the land as a public road. There was sufficient evidence to support the *animus dedicandi*, as it was called, and the public had the right, of which they could not be deprived, of uninterrupted access to their properties from all parts of the road. It seemed to him, therefore, that the Committee were dealing with an imaginary danger altogether. It was perfectly true that there was a reference to the possibility of fencing on the part of the Commissioner; but the Commissioner was not above the law, and what he had stated must only be taken as the expression of his individual opinion at the time. He (the Attorney-General) thought it would be folly on the part of the Committee to recognise the possibility, however remote, of that line being fenced.

Mr. S. W. BROOKS said he could not think that those members of the select committee who sanctioned the insertion of the 6th paragraph of the report were altogether wrong. If hon. members would read the letter of the Commissioner, which would be found at page 37, Appendix F, they would see that there were sufficient grounds for the statement in that paragraph. The letter said :—

"In the event of you refusing this offer the matter would have to be referred to arbitration, the department reserving to itself the right of fencing in the railway line, and thus debarring you from the use of the frontage of the land resumed for railway purposes."

It was necessary, in dealing with that matter, for hon. members to have the plan before them. It was no use looking at the evidence. A man would simply get muddled and mixed if he confined himself to the evidence. He thought if hon. members would take the plan in their hands and look at it they would see that there was very good reason for Mr. Corser to fear that, some day or other, the line would be fenced from March street to the Bank of New South Wales property, and that would cut off Mr. Corser altogether from his wharf property. That road was opened by the railway resumption; it was not a road before, but was made by the resumption. Previously people were allowed to go that way and use it as a road, on sufferance.

Mr. CHUBB said it was just as well to understand that matter thoroughly. He saw by the plan that there was a road, apparently on both sides of the line. If he was wrong the Attorney-General would correct him. That road ran on both sides up to March street, and there was no doubt whatever that there was access from March street into those roads on each side of the railway. That was perfectly clear; but was there access across the line to Corser and Co.'s wharf? Could not the railway authorities prevent people crossing the line?

The ATTORNEY-GENERAL: No; it is a road.

Mr. SHERIDAN said that the continuation of the fence alluded to a few yards further would cross March street, which was a public street in Maryborough, and prevent all access to the river by March street. If it was continued a little further it would also prevent all access to the corporation and Government wharves. It appeared to him that it was a very reprehensible act indeed on the part of the Commissioner to say that, if the amount he offered was not accepted as sufficient to meet Mr. Corser's demand, the whole property would be rendered useless to him. He thought it would be just as well to make a bargain with Mr. Corser that the railway should not be fenced in. He thought that Mr. Corser should not be deprived of the use of his road and debarred his rights through what he was compelled to call the misconduct of the Commissioner.

The ATTORNEY-GENERAL said it would be just as absurd to say that the Commissioner might come down and put a fence along Queen street. He thought they must not allow themselves to be frightened by any threat which might have been made, because it would be utterly impossible to close the road. What was the use, therefore, of saying that the Commissioner had power to do that which he had no power to do? The road had been dedicated to the public, and if interfered with, the Attorney-General of the day would not be doing his duty if he did not file an information against him *ex officio* for causing a public nuisance.

Mr. McMASTER said he might be wrong, but he thought the question would depend upon the title Mr. Corser obtained. If his title showed he had a right-of-way to a street or road, he could maintain his position; but if it did not show that, and that he had only a frontage to a railway line, he would be placed in a very different position. If the road was dedicated in the title-deed Mr. Corser was secure.

Mr. CHUBB: It is not.

Mr. McMASTER said the Government must have a title to the land resumed, and there would be a fresh title granted to Mr. Corser for his portion of land. He understood that all land resumed by the Crown for railway purposes required a title, and a fresh title must have been granted to Mr. Corser, and it must show whether he had a frontage to a road or street. He was aware that the title would show the balance of the land after a certain portion had been resumed, but would it not show that Mr. Corser had a frontage to a road, street, or railway line? If the frontage was to a railway line then the Commissioner would have authoritative power to fence. But if it was a frontage to a road or street the municipal council or other local authority could prevent him from doing so.

Mr. SHERIDAN said Mr. Corser had a frontage to the Queen's highway, the river; and if a fence was put up his property was absolutely ruined, through his being prevented from having access to the wharf. If the Commissioner had power to fence Mr. Corser off from his right-of-way to the river, the compensation which would be claimed would be exceedingly great, and justly so. The Commissioner had threatened to inconvenience Mr. Corser in order to cheapen his demand for compensation.

Mr. ADAMS said there was one point that had been lost sight of. If anyone looked at the plan, it would be found that the Grand Hotel was not built right up to the line. There was a piece of land intervening between the Grand Hotel and the line. Taking into consideration that fact, he thought the railway authorities had a right, if they wished to enforce it, to fence in their portion, though by doing so they would almost ruin that portion of the property. As to fencing in the other portion of the line towards the wharf, he did not believe the Government would ever allow it, for the simple reason that that was the only way of getting to the wharf. Therefore he did not think there was any danger. The danger was that that portion of the land adjoining the Grand Hotel might be fenced, and he thought the Commissioner's threat should be withdrawn and Mr. Corser given some guarantee that the property should not be fenced.

Mr. BUCKLAND said he thought, with the hon. member for Fortitude Valley, that Mr. Corser's deeds should show whether the road had been dedicated for public purposes. If Mr. Corser could be given a guarantee that the road would not be fenced, then the claim for £1,800 might be struck out of the Committee's report. The clause he referred to was—

"For loss of revenue from right-of-way at £120 per annum, capitalised at fifteen years' purchase."

Now, from all he could gather after reading the report, Mr. Corser only received an annual rental from the A.S.N. Company. There was nothing more than £120, being one year's rental guaranteed to him, and that was the only amount he had a right to claim. As to the item of fifteen years' purchase, the evidence of Mr. Corser himself showed that he only received £120 for the use of the right-of-way.

Mr. MORGAN said he understood the Premier and Attorney-General to say that the possibility of the railway authorities closing a road that had been dedicated to the public was very remote—was that so?

The PREMIER: They cannot do it.

Mr. MORGAN said he knew where it had been done; and without even saying to the local authorities, "By your leave," the railway authorities had closed a road and insisted on their right to do it, and had ever since maintained the right.

The PREMIER: You can do it under the law.

Mr. MORGAN said quite so, and there was no guarantee that Mr. Corser would not be treated in a similar manner.

The PREMIER: That is entirely a different case. If you once dedicate a road you cannot afterwards close it.

Mr. MORGAN said the fact remained as he stated—that streets had been closed and serious injury done to property owners thereby. He thought that was a matter which ought to be taken into consideration in dealing with a claim such as Mr. Corser's. If his property was to be severed in that manner, and instead of having to travel ten feet to get to his water-side frontage he had to travel ten chains, then a lasting wrong had been done to the man.

Mr. S. W. BROOKS said he was afraid it was hardly correct to say that a road could not be stopped. He had a lively recollection of the compulsory closure of Campbell street, Bowen Hills, within the last five years.

The PREMIER: By law.

Mr. S. W. BROOKS said there was a very hot fight about it at the time, and those interested did not think it was by law.

The PREMIER said he hoped hon. members would not run away with any notion of that kind. What the Government had done was to construct through Mr. Corser's property a good macadamised road, along the middle of which they had laid a line of railway for the benefit of Mr. Corser's property and also for the benefit of the public. Everybody could now go through that piece of road. Nearly the whole of that claim was for opening, not the railway, but for opening the road through there. That road was dedicated to the public, and Mr. Corser's claim was for opening the road through his property by which the public could go without paying him toll, which he estimated at nearly £2,000. Then it was suggested that Mr. Corser should be paid an equal sum in case that road should ever be closed again; which was rather absurd. It was said that although the road was open now, it might at some time be closed. There was no chance of the road being closed when once there had been an act of dedicating it to the public. That road was dedicated to the public. It was used by Mr. Corser, whose property abutted on it on both sides, and it was also for the use of the public who wanted to walk or drive through it.

Mr. ANNEAR said he did not think the Premier had stated the case clearly enough. The Government had made a beautiful road there, no doubt; but there was a beautiful road there before the railway was made. The hon. member for Port Curtis interjected that the railway was made there at Mr. Corser's request.

Mr. NORTON: I did not interject that.

Mr. ANNEAR said the hon. member interjected that the railway was made for Mr. Corser's benefit. That was not so, for Mr. Corser objected to the railway being made, or the land resumed, without substantial compensation. If hon. members looked at the plan they would see that if a fence was erected it would stop access from the wharf to the other side of the property and render it utterly useless. The Attorney-General, who was in Maryborough the other day, knew that evidence was given there, that so long as the road was left unfenced it was creating new frontages, some of them of the value of £10 a foot. To put up a fence would make them worth nothing at all. Would the Premier give him an assurance that no fence would be erected there? It was believed that a fence could be erected there at any moment.

The PREMIER said that as far as the law went no fence could be erected there, and if the hon. member wanted an assurance that the present Government did not intend to break the law, he would give him that assurance readily. If any other Government attempted to break the law, Parliament would be perfectly capable of dealing with them. It would be time, however, to talk about that when it happened.

Mr. S. W. BROOKS: Does the hon. gentleman mean to say that the railway line cannot be fenced in by law?

The PREMIER replied that when the Commissioner for Railways dedicated a road he could not fence off the houses abutting upon the road. The fact of there being a railway along the middle of the road did not make any difference. Nobody but the owners could fence properties abutting on a street from the street.

Mr. STEVENS: What constitutes dedication?

The PREMIER: Throwing a road open for public use is sufficient.

Mr. CHUBB said the mistake hon. members were labouring under was this: They thought that when the Commissioner for Railways had resumed a piece of land for the purpose of railway construction, and dedicated it as a road, he only dedicated that portion which lay on either side of the line—that he did not dedicate that particular part of the road on which the lines were laid. The case in point might be compared to building a railway line on a road which existed before—such as the line from Ipswich to Harrisville. In many places that line ran along the centre or at the side of a road, and yet nobody ever dreamt of asking for compensation on that account.

Mr. ADAMS said that if it could be shown that the road had been gazetted a public road it was beyond the power of anybody to erect a fence upon it.

Mr. ANNEAR said he was quite willing to accept the assurance of the Premier that the road could not be fenced in, and would, with the permission of the Committee, withdraw the 1st paragraph of the resolution.

Withdrawn accordingly.

Mr. ANNEAR said that before proceeding further he considered it would be necessary to make a few remarks in reply to what fell from the Minister for Works the other day. That hon. gentleman, he knew, would not give utterance to a statement unless he believed it to be true, and no doubt he thought the statement he made to the House last Friday was true. The hon. gentleman was reported in *Hansard* to have said :—

"The records of the Real Property Office show that the allotments 1 and 2, section 104, town of Maryborough, which is the land in question, was conveyed to Mr. Corser by the late Mr. Thomas Walker, in consideration of the payment of the sum of £500, and in further consideration of a mortgage upon it being currently executed in his favour to secure the payment of another sum of £500. Now, that shows conclusively, from documents that cannot be contradicted, what was paid for the land The conveyance was dated May, 1885. That is the date of the transfer, and the transaction would have been some time before that. Mr. Corser bought the land unimproved—without anything upon it—we may assume. That is the only way in which the value is arrived at. Now, if there was a man in Australia who knew the value of land, and could make a bargain and stick to it as sharply as Mr. Corser can, it was the late Mr. Thomas Walker. He never sold anything without getting value for it to anybody under any circumstances.

"Mr. BLACK: Is that in the evidence?

"The MINISTER FOR WORKS: No; I got the information at the Real Property Office, and the hon. member may satisfy himself if he is in doubt about it.

"Mr. BLACK: I was referring to your remark about Mr. Walker.

"The MINISTER FOR WORKS: We will assume that this man was in his senses, at all events, and that he did not readily part with his property without knowing its value. He may not have known what Mr. Corser seems to have traded upon, and that was the way in which resumptions are sometimes dealt with here — that people who have claims against the Government for resumptions have often managed to get twice the value of the land. Mr. Corser may have reckoned upon that. Probably that was not an element in Mr. Walker's calculations. I do not think it was. He was satisfied to take the value of land when he sold it. Now, previous to that Mr. Corser said that he was paying rent, £312 a year, for the land. Will anybody in his senses believe that a sane man would sell for £1,000 a piece of land that he was letting for £312 a year? If Mr. Corser had been pressed upon that point, it would have been found that the £312 covered a good many things besides the rent of that land. But he was not pressed to say what it was for. Part of it may have been for rental, but another part of it was for other things; I feel satisfied of that."

Mr. Corser happened to be in Brisbane, and on reading the report he sent the following telegram to one of the trustees of the late Thomas Walker:—

"8th October.

"To J. Walker, Esquire,
"Waltham Chambers,
"Bond street, Sydney.

"Railway case before House They want promptly particulars lease My copy in private drawer Maryborough Please wire date and duration lease also annual ground rent."

To which he received the following reply :—

"10-10-1887,
"Exchange, Sydney.

"E. B. C. Corser,
"Grand Hotel, Brisbane.

"Am without particulars present lease Ground rent of ten (10) years' lease which expired 9th August 1884 was three hundred and twelve (312) pounds yearly.

"J. T. Walker,
Bond street."

That, he was sure, would satisfy hon. members that the amount Mr. Corser paid as ground rent at that time was £312 per annum. The Minister for Works went on to say :—

"Now, the amount of land altogether was 1 acre 52 perches, and from that we took 19·6 perches for railway purposes. The whole of this 1 acre 52 perches Mr. Corser had purchased a few months before, and after the notice of the resumption of the land had been given—for £1,000; and then he comes down here and petitions a committee of this House to grant him the sum of £3,859 16s. He is awarded by the committee the sum of £2,359 16s. for 19·6 perches out of 1 acre 52 perches, for which he had given £1,000 a few months before, not taking into consideration the fact that the land has been considerably enhanced in value, as is shown by one or two witnesses, by the fact of the railway being taken through it. As to the question of the right-of-way, you will find this admission by Mr. Corser at question 378 :—

"'But if the company into which the old A.S.N. Co. merged chose, they could have access to Walker's wharf without being under the necessity of having a right-of-way through your land? Oh! they have access; but not convenient access.'

"The men who were occupying the wharf were not likely to make it convenient, since they were only temporarily in possession of the wharf; and the probability was that they would very soon cease to exist as a shipping company, and were not prepared to spend money for the purpose. That is why they made a temporary month-to-month arrangement with Mr. Corser to get through. At question 305, after being asked by Mr. Rutledge as to the price he paid Mr. Walker for the land, and after saying that he did not care to answer the question, Mr. Corser said :—

"'I should prefer for special commercial reasons—because I do not wish to convey an erroneous opinion as to its value—to state the value of that property at the time of making the agreement, when I entered into the transaction with Mr. Thomas Walker, at the time of the lease. I may tell you that after taking accounts between us, the balance ascertained that I had to pay to Mr. Walker was, as far as my memory serves me, £8 000.'

"Thereby he conveyed the impression that he actually paid Mr. Walker £8,000. No wonder he was unwilling to tell what he paid, because he was trying to convey a false impression to the committee. I do not say that Mr. Walker did not get that £8,000 for improvements on the land in the shape of buildings, but it did not represent the surface value of the land or any portion of the land resumed for railway purposes. So that with his disingenuousness and the committee's failure to force him into a corner and say what he gave for the land, he was allowed to get out of the question and convey the impression that he was paying £8,000 for it."

Since that time he (Mr. Annear) had received a record from the office of the Registrar of Titles, showing that the purchase money for that property was £7,500, after paying the previous sums, which would bring it up to over £8,000. The document was signed by Thomas Mylne, of the Registrar-General's Office, and any hon. member was at liberty to see it. Referring to the twelve feet of the property which was now rendered useless, the Minister for Works said :—

"As to the values given by different people, I see that one man estimates the depreciation in value of that small piece—twelve feet frontage to March street—at £720, while another estimates it at £325. And these are the experts in valuing land in Maryborough, men who are held up by the hon. member for Maryborough, Mr. Annear, as men whose opinions can be thoroughly relied upon. I wonder what is the value of such men's opinions? They are not worth a moment's consideration."

Now, with regard to one of the gentlemen whose name he (Mr. Annear) had quoted, Mr. Frederick Bryant, he did not believe there was a more conscientious man living in the colony of Queensland. No man had a better knowledge of the value of property in Maryborough than that gentleman. Only the other day, to show what his opinion was worth, when the Bank of New South Wales' case was before the court at Maryborough, he was such a true witness and such a good witness for the Government, that after the bank had subpœnaed him they would not put him in the box to give evidence, because if he had been examined he would have given the same evidence that he had given all through at Maryborough, and which evidence was before the select committee. Hon. members might not know that the whole of the evidence taken in Maryborough was on oath. The Government were represented by their solicitor, Mr. Stafford; during a good

deal of the time the Commissioner for Railways was also in Maryborough, and the whole question was properly sifted. Mr. Corser himself was under examination in the witness-box for no less a time than twelve hours. He was confident that, had the hon. gentleman known the majority of the gentlemen who gave evidence at Maryborough, he would not have formed the opinion that they were unworthy of credence. He was very glad that other members of the committee were present—notably the hon. member for Rockhampton, Mr. Ferguson. The committee had given the matter very serious consideration; they had nothing to gain or lose by it; they were deputed by the House to do a certain thing, and he was sure they had done it in a fair and honourable way.

The HON. G. THORN said he was not present at the debate on that matter the other day, and he was glad to be able to give his opinion on it now. After reading the evidence he had come to the opinion that the award was a very fair and reasonable one, and he was further of opinion that if Mr. Corser's case had been tried before a jury, or even before a judge without a jury, he would have been awarded twice as much as the select committee proposed to give him. A good deal of discussion took place the other day on Mr. Thomson's competency or incompetency for the position of Railway Arbitrator. He did not wish to say a harsh word of Mr. Thomson, whom he did not know, but he might say that in his district and in the district all round Brisbane, great dissatisfaction existed with regard to the awards of that gentleman. He thought the Government would do wisely if they reappointed the late Arbitrator, Mr. Macpherson. During the time Mr. Macpherson was Railway Arbitrator he gave, it might be said, universal satisfaction. He was a gentleman of strict integrity and great impartiality; he was a gentleman also of strong discriminating powers, and showed great discretion in sifting the evidence that came before him. He (Mr. Thorn) had watched him adjudicating in cases, and had seen how well he could sift the wheat from the chaff—correct evidence from false evidence. The Government would not be acting unwisely if they gave that appointment again to Mr. Macpherson.

An HONOURABLE MEMBER: He would not take it.

The HON. G. THORN: Possibly not; but if he did take it he would certainly give satisfaction. He would see that the country was not cheated, and he would also see that the landholders were not wronged. Mr. Thomson, in all the awards brought under his (Mr. Thorn's) notice, seemed to give an award less even than the amount offered by the Commissioner—generally about 25 per cent. less—and then he seemed to have a second hearing, when he raised the amount to that offered by the Commissioner. He (Mr. Thorn) had particulars of such a case in his hand now, but he would not delay the Committee with it. That case and other cases ought to be sent by the Government to another impartial tribunal, or to a fresh railway arbitrator. It was very hard lines that what he might call small people should be deprived of the right of appeal, to which they were just as much entitled as Mr. Corser. He hoped that all his (Mr. Thorn's) cases, and all those the hon. member for the Logan had brought forward, would be reconsidered, or sent again to the new railway arbitrator, whoever he might be. He was pleased to hear that the department could not close that road. He would point out that near where he lived in Ipswich several streets had been closed—Milford street, Thorn street, Mortimer street, and others.

Mr. NORTON: They were closed by Act of Parliament.

The HON. G. THORN said that no compensation was allowed, although the closing of those streets greatly depreciated the value of property. He was glad that in Mr. Corser's case the street had not been closed, and that they had the assurance of the Premier that it could not be done legally. He would support the award for the full amount.

The MINISTER FOR WORKS (Hon. C. B. Dutton) said he was afraid the hon. member for Fassifern had been speaking on a subject which he did not know much about. As to what had fallen from the hon. member for Maryborough, he (Mr. Dutton) was quite content to deal with the matter upon other lines than those he had taken up the other night. He would take the items seriatim. As to the first item on the list—£1,200—he was prepared to admit that that might be right. Taking the balance of the evidence given in Maryborough, he was prepared to accept that as a reasonable valuation of the land taken from Mr. Corser for the purpose of dedicating that public road. As to the next sum of £120, he adhered distinctly and strictly to the opinion he had expressed the other night—that there was not the slightest shadow of foundation for that claim for the deterioration or damage done to the triangular piece of land fronting the hotel and not resumed. What would have been the result if that had been resumed right up to the veranda of his hotel?

An HONOURABLE MEMBER: The Government would have had to pay for it.

The MINISTER FOR WORKS: Mr. Corser might reasonably have asked for compensation if he had been left no means of getting off his veranda except on to the road. That piece of land left was a really valuable frontage, and increased the value of the hotel. It was just that nice sort of reservation in front of a building facing a road which most people valued very highly. Coming to the next item—£1,800 for loss of revenue from right-of-way—£120 per annum, capitalised at fifteen years' purchase—he thought the claim allowed by the committee was the most extraordinary he had ever heard of. First of all there was a claim of £1,200 for resuming a piece of land to dedicate as a public road, and then a claim that he should be paid another £1,800 for the resumption. He was placed under peculiar circumstances. His next-door neighbour was only a temporary tenant, and that small annual payment of £120 was liable to be terminated at any time at a month's notice, and it did terminate before this took place. He required that rent in perpetuity, as if those people could not get out of the land in any other way but through his land. The Government resumed a piece of land to give the public access through his land; and for that Mr. Corser claimed £1,200, and he also wanted another £1,800 as the capital value put upon the rental. He did not understand how any sensible man could recognise such a claim for one moment. Would any hon. member acting on that committee say what his feelings would be if he had asked for a right-of-way to be cut through anybody's land, that he was willing to pay for, and then the owner came upon him for a sum because he might have levied blackmail upon him if that had not been done? It was like paying twice or three times over. No hon. member would allow that claim of £1,800 for a moment if he looked at it from that point of view. Then, "for expenses entailed by having to cart goods from wharf to receiving store on the other side of resumption," Mr. Corser claimed £150. He would not say anything about that. That might be correct or it might not. £150 did not seem to be a very large amount, and,

properly, that really meant compensation for severance. He would not dispute that item at all. Then there was "personal and other expenses, £300." What right had they to pay his personal expenses? They had none at all. Under the Act, of course, he could be awarded costs. But he might have claimed £50,000 costs. His (Mr. Dutton's) experience of men who sent in claims to the Government was that, generally, they had no conscience at all—none whatever. He never found any conscience in a man when he made a claim upon the Government. Then there was "interest on £2,070 at 8 per cent. for one year and nine months, £289 16s." Where did that come from? He could not understand it, and certainly he did not think there was any claim there at all. It was not a claim he would recognise under any circumstances. He was happy to say that in one respect he was in accord with the committee when they found that the nhanced value of the land was £1,500. He believed that was a very moderate computation indeed, when it was remembered that Mr. Corser had a store right alongside the railway line, which would take his goods off his own veranda. All he had to do was to put his goods in the trucks, and away they went up the country. That convenience must be of enormous value, and in addition to that he had an hotel right at the corner, just where the traffic to the railway went, at the cross-roads. That hotel had been put up since Mr. Corser knew the resumption was to take place, and when he anticipated the advantages of securing a place like that for an hotel. He thought the amount allowed for the enhanced value of the property was moderate, and he would accept it as an approach to the value of the land. When they considered the matter in that way, they found that the value of the land resumed was £1,200, and the loss by severance, £150, making £1,350. The enhanced value of the land was £1,500; he did not recognise the £289 16s. or the £300 or the £1,800; so that he maintained that Mr. Corser owed the Government £150. That was a fair and reasonable way of regarding the question in dispute between Mr. Corser and the Government. He was not taking a side as if he were fighting to save the money of the Government. He was looking at it from a fair and reasonable point of view, and regarding it as between one man and another. That was the right way of regarding it; and taking all things into consideration, instead of the Government paying Mr. Corser anything, he ought to pay that balance of £150 for the increased value of the property.

Mr. MOREHEAD said he did not altogether disagree with what had fallen from the hon. member who had just sat down; a circumstance which ought to be put down as an extraordinary record. When they came to analyse the claim—and he hoped hon. members would analyse it — they would find the award of the committee was very excessive indeed. There was one item which the Minister for Works said he could not understand, and that was the item "8 per cent. on £2,070 for one year and nine months." He (Mr. Morehead) went to a friend of his, who showed him how it was arrived at; and certainly if that was the way it was got at, the country could be got at. The amount was arrived at in this way: He took the £3,859 16s., and from that he deducted the interest, which left £3,570. Then from that he took the £1,500 for the enhanced value, which left a balance of £2,070, upon which the interest was supposed to be received from the State. It would be clear to the Committee that the loss of rental was capitalised from the date of the resumption, and, therefore, was not chargeable with interest, and, in his opinion, it was an excessive demand, even if it were considered at all. He believed that a very much lesser sum would meet the case, but he was inclined to strike it out altogether. Taking the £1,500 for enhanced value away, and the £1,800 also, there would be £559 16s., which was the whole amount due to Mr. Corser; and the whole claim practically was reduced to that figure.

The PREMIER: If you take all that away you must take off the interest upon it.

Mr. MOREHEAD said the amount he mentioned would be subject to diminution for interest. He had reason to think that the value of that right-of-way was enormously overrated. The whole question hinged upon that right-of-way. The claim for the land resumed could be allowed, and the £150 for cartage could be sustained in a court of law. It seemed to him that, under the existing circumstances at the time the claim was preferred, the right-of-way was worth very little indeed. A change of wharves by the A.S.N. Company would have destroyed its value, and he did not see his way to vote for anything like the sum proposed. There must be a very serious reduction before the Committee could accept it. He would have preferred that, if a new railway arbitrator were to be appointed, the matter should be relegated to him. That should be the tribunal to which the matter should be referred. If the hon. member in charge of the motion persisted in going on with it, he must make a very material reduction in the sum asked.

Mr. CHUBB said he had been rather amused by the logical conclusion to be drawn from the remarks of the Minister for Works. The deduction to be drawn from his remarks was that the Railway Arbitrator had made an excessive award.

The MINISTER FOR WORKS: Hear, hear!

Mr. CHUBB: And yet the Government had remitted it to the arbitrator to reconsider his previous award, because the amount he had awarded was too small! It was rather an anomaly. At any rate, to pass from that subject, before dealing with the question he just wished to say that it seemed to him there was an objection almost to the House entertaining claims brought before them in that way. It was true, no doubt, that the petitioner had no other redress, for as the law stood he could only come to Parliament to entertain his case, the award being less than £500; but if the House had to deal with all such cases where the claimant was dissatisfied they might receive any number of petitions asking them to review the arbitrator's awards, and the time of the House would thus be occupied by adjudicating upon those claims. That, of course, was no reason why the claim before them should not receive attention, but he would rather see it remitted to an arbitrator to go into the question and make his award. Possibly the Government might find it necessary between now and next session to bring in an amendment to the Railway Act, whereby a claimant who was awarded less than £500 should be able to appeal, if not to the Supreme Court, to the district court, so that that House might be relieved of the labour, and also the difficulty, of arriving at a reasonable calculation as to what amount the parties should receive. He was inclined to agree with the hon. member for Enoggera in thinking they should not deal with this case in an absolutely cheeseparing way. Let them give the man what they thought was fair. He made his calculations in two or three ways, and they all gave the same result. It seemed to him that some of the committee, in estimating the value of the land resumed, took only the actual value of the land, and did not allow

anything for the profit which was attached to the land—that was, the annual rent paid for the right-of-way. If he had a piece of land worth £1,000, and had a right-of-way let over that land for £100 a year, that land was worth to him £1,000 and the capitalised profit of the right-of-way. If that land was taken away from him and all he was paid for it was the actual cash value of it—£1,000—he lost the profit arising from the right-of-way. That seemed clear, because the land, by reason of its position, brought in something more than its actual value. It had an instrinsic value, and, in addition to that, an extra value by reason of its being the key of a certain position. Therefore he thought the committee, in estimating the land, should include the profit obtained by reason of the right-of-way. They were estimating the value of the land supposing no right-of-way to exist there at all. There seemed to be no dispute so far—that the value of the land resumed was £30 a foot for 40 feet—£1,200. It appeared from the evidence that Corser was in receipt of £120 a year for the right-of-way.

The MINISTER FOR WORKS: No; not at that time.

Mr. CHUBB said he had been receiving that rent. He referred to the evidence of Mr. Cherry, at page 34 of the evidence in the appendix attached to the report. He (Cherry) said he was aware that Corser was the owner of the property, and had been so for three and a-half years to his knowledge; then he was asked by Mr. Corser:—

"Did your company lease a right-of-way? Yes; the company leased the wharf in order to have the right-of-way. The wharf was no good without the right-of-way. Corser and Co. had as much right to the wharf as the A.S.N. Company.

"For what period did they lease the wharf? It was leased for three years certain before I came here, and expired about April, 1883; then I leased from you the same privileges for a further term, until the railway gave us the road, then the company did not want it."

When the road was thrown open by the railway, of course they did not want the right-of-way; but inasmuch as the Government took away from Corser the ground-rent which he was receiving or might get for the right-of-way, he was fairly entitled to make a claim for that, and they should estimate its value. Mr. Cherry was further asked—

"What amount did you pay for that privilege? £120 per year.

"Did you pay £120 practically for the right-of-way? Yes.

"What value did you consider that right-of-way to the A.S.N. Company; the value of the privilege alone? I should have given considerably more than that not to lose the right-of-way, and I consider we had a good bargain to get it at £120 per annum.

"Are you aware that after the resumption of my land J. Walker and Co. erected a large wharf shed, and that subsequently the agency of the British India and Q.S.S. Company was transferred from me to them? Yes."

They had this fact, that up to the time Corser was disturbed by the resumption he was receiving £120 a year from the A.S.N. Company, and had an agreement for three years, and the Government interfered with that by removing the necessity for the company to secure the right-of-way. They had to deal with the facts as they existed, and not with probabilities or possibilities. The Government interfered with the man's property by resuming it, and they were bound to pay for the injury done, according to the circumstances existing at the time the interference occurred. They were not to suppose that because the lease to the A.S.N. Company was for three years only the company would not renew it for a longer time, or that Corser would not be able to get another tenant. The very best evidence of the value of it was what it fetched at the time the Government interfered with it. It was then bringing in £120 a year, and the committee were fairly entitled to estimate that value. Then the question arose as to how many years they should allow for that, and that was no doubt a difficult question.

Mr. STEVENSON: A very difficult question.

Mr. CHUBB said Corser capitalised it at fifteen years' purchase. In England, in buying freehold property, a person gave from twenty to thirty years' rent according to the character of the land, and there were regular tables for ascertaining what should be given. He did not think that fifteen years was too much to allow. The value of land so situated would go on increasing; it would not decrease in Maryborough.

Mr. STEVENSON: It has decreased in Brisbane.

Mr. CHUBB: Only temporarily, and it was rising again. They must not forget this fact either: the railway was almost up to Corser's door before the extension was made. It was not an extension of the line from some long distance to it, and that had to be considered in estimating the amount of enhancement. He made the calculation in this way: £1,200, the value of the land resumed; then he said add the loss of value by the right-of-way being rendered unnecessary — £1,800. That gave £3,000, and taking off the value of the enhancement £1,500, it gave £1,500. That was one way of arriving at it; and he would now take another way. Suppose Mr. Corser himself had made the road for his own benefit, and it would have enhanced the value of his public-house and river frontage by £1,500, and, at the same time, he had destroyed his right-of-way, which was estimated at £1,800, he would have lost by that arrangement £300; and adding to that loss the value of the land resumed, which was estimated by the committee to be worth £1,200 at £40 a foot, the result was a total loss of £1,500. There was yet another view to take. Suppose, instead of resuming the whole piece of road, the Government had resumed only the land between the hotel frontage and the railway; suppose they had not made a road between the railway and the river, but only between the hotel frontage and the railway; suppose they had not interfered with the right-of-way at all up to the wharf: it was not too much to say that Mr. Corser would have been entitled to the same amount of money for the land resumed—namely, £1,200. What the Government had taken was land with a double frontage—forty feet on one side of the railway and forty feet on the other: but the select committee had only reckoned forty feet frontage. Then it could not be said that the property was enhanced in value by access to the road, because he had access to March street before. One side his hotel was open to March street, so that he had access already; therefore the opening of the road between the hotel and the railway did not give better access than he had before. So that it came to the same thing; he was allowed £1,200 for that portion of the road, and that would be the value. Of course, his calculations depended on the fact that £1,800 was a fair sum to reckon for the right-of-way; and if that was too much, the calculations he (Mr. Chubb) had made must be reduced correspondingly. It had not been disputed that £1,200 was the fair value of the land, supposing only the portion between the railway and the hotel was resumed. It would be unfair to say that the property was enhanced by £1,500, and take that off the £1,200, which was the value of the land resumed; thus getting the land for practically nothing, and bringing Corser in debt besides; so that leaving the enhancement out, and leaving the right-of-way out, the sum of £1,200 was still left as the amount of the injury to the property. With regard to the question of expenses, he thought

the evidence on that was too indefinite. No doubt under the Railway Act the arbitrator had power in awarding compensation to award costs also; but he thought the particulars in the present instance were too indefinite, and on that ground he was not inclined to allow anything, unless evidence were adduced to show exactly what the expenses were. The following appeared at question 265 :—

"By Mr. S. W. Brooks: You have your notes of the costs and expenses incurred? Only rough notes, Mr. Brooks. The costs and expenses of the hearing and the rehearing are, as near as I can make out, £150; legal expenses in connection with the petition and counsel engaged for this committee, £75; the printing and the plan, £22; and then there was the shorthand writer's and other expenses in connection herewith, about £35. These, excepting my own expenses, I make about £272."

The details of these should have been given. It must be borne in mind that the matter was heard twice, and the very fact of its being sent back for a rehearing afforded a strong inference that the Governor in Council was of opinion that enough had not been awarded. When a man objected to an award and appealed to the Governor in Council for a rehearing, he did not appeal on the ground that he had been awarded too much, but because he was not satisfied with the award. The Governor in Council need not send the case back for a rehearing unless he chose; but when he did, there was ground for a strong inference that he was of opinion that it was a fair case for reconsideration with the view of increasing the award. He (Mr. Chubb) had shown three ways, he thought, in which the amount might be made up; but he was not prepared to commit himself to vote for that sum until he had heard the views of other members. His estimate, as he said before, was based on the assumption that £1,800 was a fair amount of compensation for the loss of the right-of-way; and if that was too much, his estimate would have to be reduced by the difference between £1,800 and what was considered to be the real value of the right-of-way.

The MINISTER FOR WORKS said the hon. member who had just sat down had argued under the impression that the owners of the land adjoining Mr. Corser's property had no ingress or egress except through Mr. Corser's land. As a matter of fact, there was a street called Kent street running along their whole boundary, and that was the natural means of ingress and egress to those properties fronting the river. And why should the hon. member assume that the A.S.N. Company paid £120 a year for the right-of-way, and then capitalise that sum and say that was the amount to which Mr. Corser was entitled? The £120 a year was not paid for the right-of-way, but for the wharf. That was quite evident. The hon. member read from Mr. Cherry's evidence, but stopped short at a very important part of his statement, and did not quote the following :—

"Mr. Stafford: Notwithstanding that, you still paid at the rate of £120 till the land was resumed?

"Mr. Cherry: Yes.

"Mr. Stafford: Are these terms embodied in the agreement?

"Mr. Cherry: Yes; the lease of the wharf is embodied in the agreement. It is for the lease of the wharf we paid £120 per annum.

"By Mr. Arbitrator: Did the agreement say anything about the right-of-way?

"Mr. Cherry: It said nothing about the right-of-way."

Mr. Corser could have blocked him at any time, and Mr. Cherry could not have forced his way under that agreement. Mr. Cherry agreed to pay £120 per annum for the wharf, and it might or might not have been understood between them that he should have the right to go across Mr. Corser's land. In the agreement there was nothing about a right-of-way, and consequently he could not force Mr. Corser to allow him access through his land. And then it must be remembered that the men who paid that £120 a year were only in temporary possession of the land which belonged to the Bank of New South Wales, and therefore there was no inducement to spend money on it in making a way out to Kent street. There was a road there, only it was rather steeper than the other. It had not been in any way established that the £120 per annum had been paid for the right-of-way, but, on the contrary, it was clearly shown that it was paid, not for the right-of-way, but for the wharf. If the right-of-way had been an important consideration in the lease it would certainly have been embodied in the agreement; and if there was only a sort of tacit understanding between the parties, then Mr. Corser could have blocked the so-called right-of-way any time he chose. Mr. Corser had no claim whatever beyond the value of the land resumed. If a road was taken from a man's land under the Public Works Lands Resumption Act he was paid the value of the land resumed and no more; and to claim that he was entitled to something in excess of the value of the land was a perfectly monstrous proposition, which no man with any sense of right could maintain for a moment. He (the Minister for Works) thought from his light, and from his point of view, that a man who could maintain that a person was entitled to more than the value of the land resumed in such a case was deficient in the rudimentary sense of what was right. That was his idea of what was right between one man and another. Mr. Corser had no claim beyond the value of the land resumed, and that was the only claim recognised under the Public Works Lands Resumption Act. To say that they should recognise the claim of a man to levy blackmail, where the Government felt the necessity of giving relief to the public from any imposition of that kind, was a contention that would not bear examination for a single moment. All that, however, was only on the assumption that there was no get-out for those men except through the property of Mr. Corser. But anybody looking at the plan would see that there was a proper and natural get-out to the road running along the back of their lots, and, as a matter of fact, it was used for that purpose. He disbelieved Mr. Cherry when he said that the £120 a year was paid for the right-of-way. The agreement simply said that it was paid for the wharf. It was clear that the right-of-way was not embodied in the agreement.

Mr. CHUBB: How do you get from Kent street to the wharf?

The MINISTER FOR WORKS said: Kent street ran along the back of the whole of the lots. The river was the frontage on one side, and Kent street bounded them on the other, so that there was a clear and natural way for the owners of those properties. That the Government should be asked, for giving them another right-of-way, to pay to anyone more than the value of the land resumed, was monstrous in the extreme. It was said that there were natural difficulties in the way of using the other road. Of course there were natural difficulties in many instances, and the owners of the property must overcome the natural difficulties by the expenditure of money. The A.S.N. Company were only in temporary occupation of the land they leased, and consequently they were not inclined to spend money in improving the property. He thought that if members looked at the question from that point of view they would come to the conclusion that any man in a reasonable frame of mind, apart from any prejudice, would say at once that the claim of Mr. Corser for the right-of-way was not at all tenable, and that no man with any sense of what was fair and right could allow it.

Mr. STEVENSON said he had not the least intention of supporting the hon. member for Maryborough, Mr. Annear, in his motion for the adoption of the select committee's report. He thought that if it had not been for the action of the Government in removing Mr. Thomson from the position of railway arbitrator, and thereby admitting, as hon. members believed, that his action in that particular case was the chief cause for his removal, there would have been very little discussion on the matter that evening. The Government were to blame for raising the discussion that had taken place, as he believed very few members were in sympathy with the report of the select committee. The Government by their conduct actually admitted that Mr. Thomson was unfit for his position, and members of the Committee believed that it was in consequence of his action in that particular matter that his removal was determined upon: there was not the slightest doubt about that. The case of Mr. Corser had taken too much bolstering up altogether to be any good. He did not believe that Mr. Corser was entitled to the amount recommended by the committee. He did not know that the Railway Arbitrator was entirely right, but, at the same time, he believed he was very much nearer the mark than the select committee. When he first looked into the matter he was disposed to think that Mr. Corser was entitled to £1,000 or £1,200, but really, after what had taken place, and having considered the matter again, he thought he was not entitled to that sum, and he believed the Minister for Works was very much nearer what was right in his estimate. That was the very reason why he could not understand that the late Railway Arbitrator should have been removed from his position, and the Government actually admit he was incompetent, simply through his verdict in that case. He did not know, of course, if the Government said that it was on account of his granting too much to Mr. Corser that he was removed. He could understand that; but if they said, on the other hand, that he was incompetent because he granted too little, they had taken up a wrong position altogether, because the Minister for Works had taken up this position: that Mr. Thomson had granted Mr. Corser £380 too much. Now, he did not at all agree with the hon. member for Bowen, who had certainly made a long speech and argued all round the compass. As far as he (Mr. Stevenson) could boil down his remarks they simply amounted to this: that Mr. Corser was entitled to £1,500. Well, he did not think he was.

Mr. CHUBB: I assumed that the £1,800 was correct.

Mr. STEVENSON said he did not believe it was. The committee had charged interest on the amount, and he did not think that ought to be admitted. He believed the Minister for Works was nearer the mark with £1,200. Although he felt satisfied that the committee had taken the matter thoroughly into consideration, and given their award according to their deliberations, at the same time he believed that the award was excessive, and he certainly should not vote for the motion. He was very sorry now that the Government had admitted their weakness in relieving the Railway Arbitrator of his duties in consequence of the expression of opinion which had been given in the House. He said again that a case that wanted so much bolstering up was a weak case. Mr. Corser had been in Brisbane for weeks. He had been sitting in the gallery of that Chamber for weeks, and he had been going about trying to influence hon. members in their votes, which he (Mr. Stevenson) considered a most indecent thing. A case that required so much bolstering up ought to be looked upon with a certain amount of suspicion, and if it could not stand on its merits it was not worth bringing before the House.

The MINISTER FOR WORKS said he would tell the hon. member why Mr. Thomson was relieved of the duties of railway arbitrator: because he was unable to give an intelligible reason to the committee for the award he gave. That was the only ground.

Mr. MOREHEAD: And destroyed his notes.

The MINISTER FOR WORKS: He was unable or unwilling to give an intelligible reason for the award he arrived at. Since he could not do so, or was unwilling to do so, he was not fitted for the position of railway arbitrator, because he ought, when called upon, to have been able to give his reason. Now, why there should be any difference between the award and the one he had read out was this: that he accepted the committee's estimate of the enhancement in value. That might not have been the estimate of the arbitrator. Probably, if he had known what the arbitrator's estimate was, his idea of what to give Mr. Corser would have been something near the arbitrator's award, because he calculated Mr. Thomson gave £150 too much.

Mr. CHUBB: Why do you accept the arbitrator's valuation on one item and not on another?

The MINISTER FOR WORKS said he did not accept the arbitrator's valuation at all; but he said his own valuation might have been more correct if he had known the arbitrator's estimate of the enhancement of value. He had no means of judging of the means by which the arbitrator arrived at his conclusions, but he assumed that the committee, with all the information before them, would have a very good idea of what the enhancement in value was.

Mr. ANNEAR said he would go back to what the Minister for Works said before in speaking about the twelve feet of land, which was the property of Mr. Corser, and which he (Mr. Annear) contended was of no value whatever to him. If hon. members would read the evidence they would see that every one of the witnesses put the value of that land down at £30 per foot before the resumption. Now, if it was worth £30 per foot before the resumption, he would like to know what had rendered it useless. Was it not the resumption which had made it useless? And he was sure that since the resumption there was not one person in the town of Maryborough who would give 5s. a foot for that land although it was worth £30 a foot before the resumption. Now, he wished to refer to the £1,800 which was the capitalised rental paid by the A.S.N. Company. The hon. the Minister for Works had stated that that was given for the wharf, and not for the road. But the whole of the time the A.S.N. Company was paying £120 a year for the land Mr. Corser was the agent for an opposition line of steamers, the Q.S.S. Company, and also the agent for other boats. The name of the company was on the buildings, on the wharf, and the name of the company was there now. The A.S.N. Company had no control over the wharf whatever. They paid £120 a year for the right of using the road and not the wharf.

The MINISTER FOR WORKS: What does the agreement say?

Mr. ANNEAR said he would also ask hon. members to look at the evidence of Mr. Corser on page 19. He was asked:—

"In that respect the resumption has prejudiced your business by bringing the neighbouring wharves, removed so much higher up, to compete with you? It has decidedly!

"That has produced in the freights a reduction of your income from the wharf? Yes. At present the income from the wharf is not £120 a year. I was receiving in some instances as much as £390 a year from it."

Now, with the resumption of that land, it removed all that. The resumption of the land had caused other firms to build other wharves, and there was a way to reach those wharves which did not exist before. He would tell hon. members this fact, if they did not know Maryborough—and he did not suppose the Minister for Works knew it as well as he did: that to take half a ton up the road leading to Kent street would be far more labour for a horse than it would be to take a ton from the present road and draw it up Wharf street. A horse would take twice the load, and twice as often, as it could before the land was resumed. The Minister for Works also said he could not see why Mr. Corser should be entitled to any costs. Hon. members must remember that the case was heard on two occasions, on each of which Mr. Corser had to produce seventeen witnesses, and there were also legal and other expenses; and Mr. Corser was put to all that expense by the most absurd offer that was made to him in the first instance. For an allotment of land near that railway, which would have been sold four or five years ago for £1,200, he himself on the 20th February last, on behalf of a firm in the colony, offered over £4,000, which was refused. It was enhanced in value 300 per cent., which would never have been the case if Mr. Corser's property had not been resumed; and it should be borne in mind that Mr. Corser objected to any railway going through his property. For that severance of his property he was offered £250, while the value of the very next property was fixed by the same authority at £1,005. The offer was a most outrageous one, and if the Committee persisted in not doing justice to Mr. Corser he could call it nothing else than an act of robbery, neither more nor less. The leader of the Opposition said he did not see why interest should be added on that money. The offer was made a year and nine months ago, and the committee came unanimously to the conclusion that, although Mr. Corser had suffered to the amount of £3,859 by the resumption, yet he had benefited thereby to the extent of £1,500, which, exclusive of the award of the Railway Arbitrator, left a balance of £2,070, which ought to have been paid to him a year and nine months ago. Would any hon. member or any monetary institution allow £2,070 to be scattered about the country without getting a shilling of interest upon it? Look at the composition of the committee. Were they men who would be a party to anything unjust or wrong? They were guided entirely by the evidence and by the facts that came before them. Then look at the great advantage that the owners of adjacent property had derived from Mr. Corser's property being resumed, some of the properties having been enhanced in value nearly 300 per cent.

Mr. ADAMS said, the other night the Minister for Works thought that £250 was too much to be given to Mr. Corser, while now he did not consider that £1,200 was too much for the resumed land. What had made the hon. gentleman change his opinion? The other night the Minister for Works asserted that Mr. Corser had paid £500 for the property, and had a mortgage upon it for £500 more, and that he did not purchase the land until he knew it was to be resumed. But that had been conclusively disproved by the hon. member for Maryborough, and by documents from the Registrar-General's office, which he himself had seen, showing that not only had Mr. Corser paid £500 cash for the land, but that he had a mortgage upon it of £7,500. Since that had come to the hon. gentleman's knowledge, he had gone on another tack altogether, and told the Committee that he really believed the resumed land should have been valued by the arbitrator at £1,200. It was very strange that Mr. Corser's land should be considered worth only £250, when adjoining land was valued by the same arbitrator at £1,005. He was reported to have said the other night that the line stopped 1,800 feet from Mr. Corser's property; what he did say was, from 80 feet to 100 feet. Had the line stopped there it would have been a great boon commercially to Mr. Corser, for the reason that he, and he only, had the right-of-way, which brought him a handsome rent. It was all very well for the Minister for Works to tell them that Mr. Corser was paid, not for the right-of-way, but for the wharf; but Mr. Cherry had sworn the A.S.N. Company would not have wanted the wharf but for the right-of-way, and it was that for which they were paying. The Minister for Works said he did not believe Mr. Cherry. Well, that hon. gentleman did not seem to believe anybody, and it was just possible he might not believe himself. One of those very gentlemen whose word the Minister for Works refused to believe — Mr. Bryant — was actually called to give evidence on behalf of the Railway Department in the case against the Bank of New South Wales. There was no doubt that the adjoining properties had been enhanced in value; but by what means? By the Government resuming a portion of Mr. Corser's land; and it was because of that that the arbitrator awarded nearly four times more for an adjoining property than he awarded to Mr. Corser. The hon. gentleman said they had a main road in Kent street. He was aware of that; he had been there many and many a time, and it was so steep in parts that he thought he should have to climb it on his hands and knees. It would take a considerable sum to make a really good road there. By having the right-of-way through Mr. Corser's land, there was no occasion to use Kent street to get to and from the wharf, with drays travelling an extra distance of fourteen chains for every load they took and not being able to take one-third as much as they could take along the flat in two chains. That made a vast difference in the cost of cartage, and the consequence was that it was better for the company to pay £120 a year for the right-of-way than to make the road by Kent street available. Therefore that was what had enhanced the value of the property above, and why should Mr. Corser be made to suffer simply because the Government, by going through his property, had enhanced the value of the property above it? Why should his property be depreciated in value on that account? He believed that the committee had come to a fair conclusion, and that it was the opinion of hon. members generally that the committee had not recommended one penny too much in their report.

The ATTORNEY-GENERAL said his hon. colleague the Minister for Works had laid stress upon the fact that the agreement between the A.S.N. Company and Corser was not an agreement as to the right-of-way, but an agreement for the lease of Corser's wharf. That made no difference whatever as to the merits of the case, because, by a well-known rule of law, the wharf on Corser's property being leased to the company, it was incumbent on Corser to permit the lessee free ingress and egress. The right-of-way therefore followed as a corollary to the right of the occupancy of the wharf itself; so that nothing turned upon that. He had pointed out the other night, when the matter was under discussion, that whatever might be supposed as to the value or otherwise

of the key to the position, as far as Corser was concerned, they had the best evidence—independent evidence—that could be supplied as to the value of the position. He pointed out on last Friday night that it was given in evidence at Maryborough the other day that the Bank of New South Wales had offered to give land, which they and other people valued at £1,000, for nothing if the Commissioner would permit the straight resumption to stop twenty feet short of Walker's property. So that the bank very highly valued the right to the key to the position in a very much inferior condition, if he might so speak, to the condition that Corser's key was in. They valued the privilege of having the key to the position at £1,000. That being so, what was the value of Corser's key at the very choicest part of the position? And the mere fact that the A.S.N. Company did not hold any agreement with Corser for more than a short term did not count for very much, when it was borne in mind that whatever company succeeded the A.S.N. Company must have the wharf that was between Walker and Co's. and Corser's land. The amount of wharf frontage available in Maryborough was very limited, and the extension of the shipping trade would render it absolutely necessary to carry on the business further up the river than Corser's place. Corser was in a different position from what the Bank of New South Wales would have been with regard to the key. His hon. friend had referred to the levying of blackmail, but Corser was not in the position of a man wanting to levy blackmail, because his position was a fortunate one, though not made by any action of his own. The line was brought down right opposite his property, and stopped there. He was, therefore, placed by other circumstances in a fortunate position, being the holder of the key of the position; whereas the bank would have been in the position of parties who had contrived to purchase the key to the position; and he (Mr. Rutledge) took it that there was very great difference between deriving a pecuniary advantage when that advantage arose from any contrivance of a person's own, and a pecuniary advantage which did not arise from such a contrivance. He could not see, therefore, that Corser, being in a position to charge for the right of the use of the wharf frontage higher up, could be said to be placed in a position to levy blackmail. If he was deprived of that right then he was entitled to some substantial compensation for the loss of it.

Mr. DICKSON said, in dealing with the question, he thought they should either endeavour to award substantial justice to Mr. Corser, or relegate the inquiry back to a new railway arbitrator. The longer they debated it, and the more arguments that were advanced, the more they tended to confuse instead of enlighten hon. members; and he thought the best course would be that a new tribunal should be constituted or a new railway arbitrator be appointed, who would reopen the case, and, he trusted, award substantial justice. The Minister for Works had given a satisfactory explanation of the causes which had induced the Government to remove Mr. Thomson, of whom he (Mr. Dickson) was not going to say anything except that he trusted the Government would not forget there were other cases which had been inquired into by Mr. Thomson, and which were now awaiting final decision. He trusted the claimants in those cases, who were perhaps men who had no opportunity to bring them before that House, and who had not the pecuniary ability to litigate, would receive consideration; and in the event of a new railway arbitrator being appointed, he hoped their claims would be reheard, so that they might be relieved of their present disability. He agreed with the hon. member for Bowen, that the clause in the Railway Act should be amended so that claims, whether for £100 or £500, or upwards, should have the opportunity of being reheard, instead of being shut out from full consideration. Whilst most anxious to defend the Treasury, he could not see his way to do so in such a satisfactory manner as the Minister for Works had attempted to show that evening, for he had shown how a public creditor might at once be transformed into the position of a public debtor. He should advise the Colonial Treasurer to send a requisition at once asking Mr. Corser to forward his cheque for £150 to the Treasury, being the amount of benefit the Minister for Works contended Mr. Corser had received from that railway construction. He did not think that was so. He thought Mr. Corser had certainly suffered injury to his property. He said that advisedly, and to his mind Mr. Corser should receive compensation for that injury; but he could not arrive at any basis which would justify him in stating an amount to the Committee. He had made a hurried statement the other evening as to the value of the right-of-way, but they had since received a great deal of additional information on that subject. They had received information which showed that the right-of-way was a dedicated road, and that the rails were so sunk that they would not interfere with the use of the road as a means of communication between Mr. Corser's wharf and his store. That to a certain extent removed, or at any rate reduced, the grand consideration as to whether the full amount of £1,800 should be conceded to him for the lost toll—as it might be called—which he levied on that right-of-way. He thought that was a very material feature in the case; but on the other hand they should bear in mind that notwithstanding it was a dedicated road, so long as it was used by the railroad, trucks might be allowed to remain between Mr. Corser's store and the wharf, and at such times he would be subjected to great inconvenience, and would be prevented from having that free access to the wharf from his store which he otherwise would have enjoyed. There was not only the resumption of the land for which he should be paid, but there was also an interruption through severance. Taking the value of the land at £30 per foot, which the Minister for Works accepted, it amounted to £1,200, against which he placed an offset of £1,500 for the increased value of the property. The hon. gentleman would not accept the £1,800 as the value of the right-of-way, and from what he had said there was considerable reason to doubt whether that was not an over-estimate. At the same time, as the hon. member for Bowen had interjected, if they accepted one part of the committee's recommendation, why not accept the whole? It must be borne in mind that a number of gentlemen who had had considerable experience in the valuation of land in Maryborough had estimated the damage to Mr. Corser's property at considerably over £4,000. That was the evidence of experts. Then they had the report of the committee who had taken very great pains to arrive at a decision, and he did not think they should treat their report lightly. He thought the best way, both to protect the Treasury and allow Mr. Corser to make good his case, would be to let it be reheard before the Railway Arbitrator. He (Mr. Dickson) was inclined last week to accept the value of the forty feet at £30 a foot, and to add 25 per cent. to that for severance, making £1,500 after allowing for the increment of value, and he still thought that was not an excessive estimate of the damage which Mr. Corser had sustained. At the same time, it would be more satisfactory to have the matter dealt with by a proper tribunal than for

it to be dealt with by hon. members with very imperfect evidence before them. The gentlemen whose evidence was taken on behalf of Mr. Corser were—Mr. Frederick Bryant, who gave the value at £4,135; Mr. H. C. Thorburn, £4,300; Mr. F. J. Charlton and Mr. Charles Penrose Christie, £3,860; Mr. James Buchanan, £5,180; Mr. George A. O'Kane, £3,960; Mr. John Byrne and Mr. John Woodyatt, £5,280; Mr. Patrick Brennan, £4,200; Mr. John Linklator, £4,200; Mr. Edward Francis Hanley, £3,800; Mr. Nicholas E. N. Tooth, £5,000; Mr. W. Keith, £5,000; Mr. Jacob Rooney, £4,500; Mr. John Harwood, £4,000; Mr. Edward B. C. Corser, £5,000; and Mr. John H. Cherry. The evidence of those gentlemen, many of whom had been before the public for years in connection with land matters, was not wholly to be disregarded, and he could not believe that seventeen gentlemen would enter into collusion for the purpose of sustaining a claim on a false basis.

The MINISTER FOR WORKS: How about Mr. Hyne's opinion?

Mr. DICKSON said it had also to be remembered that the members of the Government themselves were not unanimous. The Minister for Works showed that Mr. Corser ought to pay the Treasury £150, while the Attorney-General thought that Mr. Corser had a claim for about £2,000. That all showed how difficult it was to arrive at a conclusion on the matter. He believed that he (Mr. Dickson) had not made an unfair hit when he estimated £1,200 as the value of the ground, and 25 per cent. on that as the damages by severance; he thought that was fair by comparison with what had been awarded by the court to the other claimants. However, under all the circumstances, he thought the fairest and safest course was to relegate the inquiry to a fresh tribunal.

The HON. J. M. MACROSSAN said that Mr. Corser came to the House as a petitioner with a grievance against a public servant, and the House had remitted the matter for consideration to a committee, which, he thought, had the confidence of the House. He would be quite willing to risk the decision of a case of that kind with the gentlemen composing that committee—substituting, of course, the name of the Attorney-General for the late Mr. Miles. Mr. Pattison, Mr. Ferguson, Mr. Brooks, and Mr. Macfarlane were all shrewd, intelligent, sensible business men; then there were Mr. Stevens, the mover, and the Attorney-General, who was there to look after the interests of the Government. Of course those cases could not be tried by the House; it was very inconvenient, as was shown even now, and it would have been more inconvenient still had it been brought there in the first place. Well, having remitted the case to a committee, unless they had some serious fault to find with the action of the committee, they were bound to accept the finding of the committee. He felt far more inclined to accept their finding than the finding of any single member of the House who was not present on that committee, did not hear the evidence, did not observe the demeanour of the witnesses, and did not take the same amount of trouble the committee took.

The MINISTER FOR WORKS: We have read the evidence.

The HON. J. M. MACROSSAN said that reading evidence was not half so good as hearing it. The fact that the public servant against whom the grievance had arisen had been removed from his office for incompetency was another strong proof in favour of the finding of the committee. The Government had been obliged to submit to the opinion of the House that Mr. Thomson was unfit for the position of railway arbitrator. Now, it was suggested by the hon. leader of the Opposition and the hon. member for Enoggera, and was seemingly approved of by a good many members of the Committee, that the case should be remitted back to another railway arbitrator, and the suggestion was made for two reasons—first because that Committee could not arrive at a satisfactory conclusion, and next in defence of the Treasury. Well, the reason about not being able to arrive at a satisfactory conclusion was a very true one, but as far as the defence of the Treasury was concerned he was afraid it was not. If Mr. Corser's case were remitted to another railway arbitrator, a man of good common sense, there could be no doubt that his award would be sufficiently high to allow Mr. Corser to go to the Supreme Court if he was dissatisfied with the award; and every member of the Committee must agree that if Mr. Corser got into the Supreme Court his award would be much higher than the award of the select committee. It would not be defending the Treasury to send the claim back to the Railway Arbitrator, and, besides, it looked like playing too much the part of children. If they were not able to arrive at a conclusion amongst themselves, it was not fair to send it back to a new railway arbitrator, who would have that case first of all to try, and would very likely be slightly intimidated from what he would have read of the opinions of hon. members in the House. If it came to a division he (Mr. Macrossan) would sustain the finding of the committee, and he thought he was perfectly justified in doing so. They might have made some slight errors, but he had not been able to detect them. He was satisfied that they had given a large amount of time and trouble to finding out the proper bearing of the case, and he thought he was justified in confirming their award, seeing that he was one of those in the House who had remitted the case to them for trial. He had something else to say beyond that. He thought it was a great pity that that case had arisen at all, and he was sorry that his successor in the Works Office ever allowed himself to be influenced to resume that land. It was he (Mr. Macrossan) who brought the railway to March street, and he would have allowed it to remain there until this day had he remained Minister for Works, rather than submit the Government to the expenditure of one single penny for the resumption of that land. It had been spoken of as a public necessity; but it was not. The only necessity in connection with the extension of that line was to increase the value of certain property, and to give two or three sawmill-owners access to the main line. He was deputationised repeatedly, and interviewed repeatedly by individuals having an interest in the matter. Parliamentary influence was brought to bear upon him; but he refused. He told those gentlemen distinctly, "If you think the extension of the line of so great value to your properties, agree among yourselves to compensate Mr. Corser for the injury which it will do his land." They refused to do so. Unfortunately, his successor, not having the facts before him possibly, was influenced, and the land was resumed, and now they had the present case before them, and the Government would have to pay, if they adopted the award of the committee, over £2,000; and if the matter went to the Supreme Court, probably £4,000 or £5,000.

Mr. MOREHEAD said he was very sorry to have to disagree with his hon. friend the member for Townsville on more than one point. In the first place, he did not look on the report of any committee that might be appointed by that House as final. Certain gentlemen were appointed by the House to consider certain matters

relegated to them, but if it were assumed for one moment that their decision was to be final, let them have the whole business of the colony committed to committees. They knew that the reports of committees had been over and over again thrown out, and in many instances they had been considerably amended. He considered the award of the committee an excessive one, although in regard to the composition of the committee he did not think that better men could have been selected for the purpose. But every member of that committee did not attend assiduously to his duties. Even the Attorney-General was absent on the first and last days, the two most important. Mr. Pattison was also absent on more than one occasion. But irrespective of that, and to come back to his original standpoint, he did not see that they should be ruled by the decision of any committee. They had all the evidence before them that the committee had, and he took it that there were gentlemen present just as capable of judging from the evidence as members of that select committee. Possibly—it was only possibly, he said—there might have been some members put upon that committee who, rightly or wrongly, might have a bias in a certain direction; whereas, if the question came before the Committee of the whole House it would be discussed wholly and solely upon its merits. A little sentiment or feeling might have perhaps come in, because, as a rule, people naturally leaned towards the individual who, rightly or wrongly, thought he was aggrieved. On the first blush of the affair he thought that Mr. Corser was a very badly treated man; but now he had come to the conclusion that probably he was a remarkably well-treated man. He did not think Mr. Corser received enough from the arbitrator; but the award proposed by the select committee was a most excessive one—excessive in almost every particular—more especially in regard to that £1,800. If they made the deductions they ought to make, of the £1,800 for instance and other amounts, they would arrive at the real sum which ought to be awarded, which was very much below £500. However, he would be willing to allow Mr. Corser the sum of £500, and if he were not satisfied with that, if it were possible, he should be allowed to go to the new railway arbitrator. It had been said that if Mr. Corser went to the Supreme Court he would get far heavier damages against the Government; but he should like to have it tried there after what they had heard from hon. members who knew considerably more about the matter than he (Mr. Morehead) pretended to; and even on the evidence itself, he considered that less than £500 would probably be awarded by the Supreme Court of that or any other colony. Now, in regard to the Railway Arbitrator, he was glad to hear what fell from the Minister for Works, because it really touched upon the question as to the removal of the present Railway Arbitrator. It was evident, as that hon. gentleman said, that the arbitrator had shown himself unable to explain what he should have explained, and also that he had destroyed documents which he should have preserved. He was glad to say that the evidence and the debate had shown clearly that the arbitrator gauged very much more correctly, to his mind, the damage sustained by Mr. Corser than the committee had done. He would prefer that the matter, instead of being dealt with by the Committee, should be referred to the new railway arbitrator, who, he hoped, would be a capable and competent man. Let him have all the evidence before him, and have the debate which had taken place in that Committee before him—although the hon. member for Townsville seemed to think that it might affect him; but it would affect him both ways, because there had been a great deal of argument in both directions. It was better that a decision should be arrived at by the Railway Arbitrator. He (Mr. Morehead) was not led away by any sympathy or sentiment. He liked to have his say and exercise his own judgment, whatever it might be worth. Having gone into the evidence carefully, he had come to the conclusion that the recommendation of the select committee was enormously in excess of the damage Mr. Corser had sustained, and he should certainly support any amendment cutting the award down to the sum he had mentioned—namely, £500; or, failing that, he should vote against the adoption of the report.

Mr. STEVENS said he quite agreed with what had fallen from the leader of the Opposition in connection with the findings of select committees not being binding upon the House. Of course, they knew they were not binding upon the House in any sense of the word, and he did not think they should be. So far as he was concerned, he would not sit on a committee if such were the case, because he would not accept the responsibility. In all other points he totally disagreed with the hon. member. He did not think he had adduced any arguments whatever to prove that the claim should be cut down to £500, or anything like it. It had been stated by more than one hon. member that the only loss was in the resumption of the land between the hotel and the wharf; but there was a great deal more than that in it. By the resumption of that land, Mr. Corser was prevented from putting his sheds and stores in close connection with the wharves, and had to build them on the other side of the line; so that he had to expend a considerable sum of money in cartage. The Minister for Works might say "No"; but such was the case. The presence of the railway prevented him from putting up his business premises in close connection, and they knew that was a very important thing to consider. Then there was the right-of-way. It was absurd for anyone to maintain that there were other ways of getting access to the wharf. That was proved by men who knew the town thoroughly. As for the rent being paid for the wharf and not for the right-of-way to it, it had been proved that the wharf was not actually the property of Mr. Corser. The Minister for Works made a great deal of the fact that the twelve feet of land had not been taken away from Corser. Neither had it, but it had been left tacked on to the hotel land, and all that could be done with it was to plant a few trees on it or enable the gravel path to be widened. If it had been left on the other side of the line it might have been useful for building purposes in connection with the stores or wharves; but as it was, it was rendered perfectly useless. Some hon. members said that Corser had had his property enormously enhanced in value, but he considered that an absurdity. Here they had a railway terminating within a convenient distance of the man's property, and rendering it of value, and the line was then extended and taken right through the property, severing a portion of it from the wharf. He had considered the matter as fully as he could, and, like the Minister for Works, had, according to his lights, arrived at a decision on the subject, but he could not account for the decision arrived at by that hon. gentleman. They took a portion of a man's property away from him, and decreased its value to that extent; a portion of the land was cut off from the wharfage, and the man was put to immense inconvenience and expense, and yet they brought him in a debtor to the Government. Before the extension of the railway the land was rendered extremely valuable by its position. How the Minister for Works, the valuator, or the

arbitrator or anyone else could award the small sums proposed by them to be awarded was to him utterly incomprehensible.

Mr. W. BROOKES said it had occurred to him during the debate that that was the second instance of the inconvenience of bringing matters of that kind before the Legislative Assembly at all. Last year he had had occasion to bring a pecuniary grievance before the House, which would not have been brought before the House if there had been a right of appeal in the case. His client, if he might so call him, was advised by his solicitors that he had no other course than to come before the House. He came before the House, and a good deal of time was occupied in considering his case. The present was another case of work being cast upon members of the Assembly which they ought not to be called upon to do. He had no desire to act unfairly to Mr. Corser or to anyone else; but he said that to bring forward Mr. Corser's case before that Assembly was to him conclusive evidence that their law with reference to those matters wanted remaking altogether. That case would not have been brought before the Assembly but for the absurd law that no one was entitled to appeal unless the award was £500 and upwards. He would like to have some assurance that that law would be altered so that the poor man might have as fair a chance as a man whose claim was thought to be worth £500. It was contrary to all elementary ideas of justice that a man to whom £300 or £250 would perhaps be worth all he had, had not the right to an appeal, whereas that right was given to a man to whom £500 might not be of much importance. He agreed with the hon. member for Logan that if the gentleman who had been superseded as railway arbitrator had committed any injustices in that hon. member's neighbourhood or in the neighbourhood of Fassifern, as was also said, there should be an opportunity afforded by the Government to those injured or so-called injured persons for obtaining redress. He believed in the proposition entirely—namely, that this question of Mr. Corser's should be relegated to the new arbitrator. He did not think it was fair to cast upon members of that Committee such a responsibility as was involved in coming to a decision upon those money cases. Some hon. members laid great stress upon the evidence of those seventeen witnesses, but he did not. Hon. members know how many men connected with business in land arrived at their facts. Without saying any more on that subject, he would simply say that he attached extremely little importance to that list of seventeen names, nor was he inclined to allow that list to influence his judgment in the least degree. £1,500 was mentioned the other night as really a fair thing, and the longer they talked about it the more his opinion vibrated from one point to another. He thought it would be in the natural order of justice to have the matter relegated to a new arbitrator. He did not agree with the hon. member for Townsville, Mr. Macrossan, that the new arbitrator would be intimidated by what had taken place in the House. He did not think much of that, nor did he accept the doctrine that the decision of any select committee should be considered in any way binding upon that House. Those members who had not been on the select committee should be just as free as air to form their own opinion on the evidence which the committee brought up. He agreed with the hon. member for Townsville that if they had heard the evidence given, and were able to note the manner in which it was given—the tone of voice, the hesitancy—if they had seen and heard all that, they might have arrived at a different opinion from that at which they were likely to arrive from merely reading the evidence.

Mr. NORTON: What evidence did the committee hear? They only heard two witnesses.

Mr. W. BROOKES said there was a great deal to be inferred from the manner in which the evidence was given.

Mr. NORTON: They only heard two witnesses.

Mr. ANNEAR: The evidence they had before them was evidence taken on oath before the court, and the Crown Solicitor was present.

Mr. W. BROOKES said he had been under a misapprehension with respect to the evidence given, and he withdrew anything he might have said whilst under that misapprehension. The point of it all was that he thought substantial justice would be done to Mr. Corser if the case was reheard before a competent arbitrator; that was all that he could ask, and all they should wish to give him.

The HON. J. M. MACROSSAN: How can it be?

The ATTORNEY-GENERAL said he was not aware that hon. members knew what was meant by referring the matter to a competent arbitrator.

Mr. CHUBB: It can only be done by consent.

The ATTORNEY-GENERAL said the provisions of the Railway Act with regard to arbitration in the case were exhausted. The arbitrator, if the matter were referred to him now, would have no power to summon witnesses or to examine them on oath. There would be nothing for him to do but to look into the matter and form an opinion as any private person might by the exercise of his intelligence. He would not have the powers conferred upon the arbitrator in a case arising under the Act.

The MINISTER FOR WORKS said that, the House having consented to submit the matter to a committee of the House, they ought not to go back upon that and refuse to accept the responsibility of dealing with it, when the committee had brought up their report. The hon. member for Townsville wished the Committee to believe that the select committee had all the witnesses before them and saw the way they gave their evidence, but they really had not, with one exception; they had only the written evidence taken by the shorthand reporter at the arbitrator's court, just the same as the printed evidence now before the Committee, and hon. members were quite as capable of judging of the value of that evidence as the members of the select committee. The hon. member for Logan did not know much about the locality, or he would have known that Mr. Corser's stores were as close to the river as it was safe to put them, and that whenever there was a fresh in the river the land near the wharf was covered with water. If he had gone through all the evidence he would have found that there were some communications between Mr. Corser and Mr. Walker as to the advisability of selecting a different position for his public-house on account of the land being flooded at times. He disagreed altogether with the Attorney-General when he talked about the key to the position. There was no key to the position if people chose to avail themselves of the natural outlet. It was only under the peculiar circumstances of the case that the A.S.N. Company had recourse to what was an easier mode of access, because if the land had been their own they would have improved it so as to get easy access to the town without going through Mr. Corser's property; so that hon. members should not be impressed by the stress laid by Mr. Corser on the loss connected with the right-of-way. The leader of the Opposition had objected to his being on the select committee, but if he had

been a member of it they would not have been quite the happy family they were. They would have had some reason for their mode of dealing with the evidence, as well as for their mode of dealing with the arbitrator, because he would have had from the arbitrator his reasons for the award he gave.

Mr. ANNEAR : He could not tell you.

The MINISTER FOR WORKS said he would have got them somehow. The arbitrator was not forced, as he ought to have been, to give his reasons for the award. There was no doubt that he seemed to be incapable of giving them in answer to the inquiries put, but they might have been extracted if he had been pushed severely enough. As Minister for Works he ought to have been on the committee, and he did not think the leader of the Opposition showed very good taste in objecting, because he had only the public interest to protect—he was not going on the committee to protect Mr. Thomson. He would not protect his own brother or his own father under such circumstances, nor would any man who was worth a straw. He did not think that even his greatest enemy would really believe he could be influenced by any motive of that kind, and he was sure his colleagues would say that, though he believed Mr. Thomson had always endeavoured to do justice, he had not a word to say in his favour when he saw how hopelessly he broke down in his examination before the select committee. He felt that Mr. Thomson could not be allowed to keep his position, but he did not suggest anything else. As hon. members had already been informed, it was the Premier who suggested that he should have a vacant post. He was not in the habit of sounding his own trumpet, but when an imputation was levelled at him—the proposition to leave his name off the committee amounted to that—he thought it proper to resent it. He maintained that he ought to have been on the committee, and he repeated that if he had been it would not have been such a happy family.

Mr. NORTON said the Minister for Works was perhaps justified in taking exception to his name being omitted from the select committee. He did not know what was intended by that omission, but he did not think it was advisable that hon. members who were connected in any way with a person whose conduct was under inquiry should sit as a member of the committee. He did not wish to say a word against the gentlemen who sat on the committee in the present case. They did their very best to arrive at a true finding, but he entirely disagreed with them. He was quite as much entitled to his opinion as any member of the committee, and he thought the finding was an exorbitant one. As he had pointed out the other night, before he authorised the continuation of the line—he did not authorise it as far as it had gone now—he saw the line himself, heard a great deal of evidence on the subject, and came to the conclusion that it would not only be a public convenience, but was a public necessity. The hon. member for Townsville spoke of the extension as not a public necessity, but merely for the convenience of some few persons. If that was the case, all he could say was that one other extension, at any rate, previous to that, and one or two since, were of much less public necessity. He did not know whether the diagram attached to the evidence taken before the select committee was correct or not; but, assuming it was, anyone measuring the receiving store and the land alongside the wharf would find there was ample room for the store between the wharf and the railway.

Mr. S. W. BROOKS : No.

Mr. NORTON : Then the diagram was not correct, because if it were there was ample room for the store. Another matter which had been made a great deal of was, that Mr. Corser had already all the advantages from the railway that he got from the continuation. It was quite true that the railway ran to the street in front of his property, but he had no advantages from that more than the people beyond. There was not a station there to which he could take his goods and require the railway authorities to take delivery of them, so that it was a perfectly unfair argument to use, to say that Mr. Corser had the advantages already which he got by having the railway extended. By carrying the line on, it had given him the same advantages as were given to others; at any rate, that was intended. It was intended to give him and other owners of river frontages the right to say to the railway authorities, "There are my goods, and I wish you to take delivery of them," instead of having to say, "Will you oblige me by taking or delivering my goods there?" Mr. Corser received those advantages from the extension of the line. But it was no use detaining hon. members any longer, as he supposed they had all made up their minds on the subject, and were not likely to alter their views by listening to further arguments. He made up his mind four years ago, and had not altered it since. He felt then as he did now, that the owner of the property in question was entitled to some consideration, and that that consideration was a very moderate one indeed. He thought that if Mr. Corser got £500 he would do remarkably well in having the line carried through his property

Mr. MACFARLANE said he would not take up the time of the Committee more than a minute or two, but he wished to reply to a statement made by the leader of the Opposition, when he insinuated that one or two members of the select committee might have been interested in the claim of Mr. Corser. He might say that, so far from being interested or biased in the matter in any way, he went to the inquiry prejudiced against the claimant, and it was only by a careful investigation of the case, by reading the original evidence given before the arbitrator, and the evidence obtained by examination and cross-examination of the witnesses, that he was compelled to alter his opinion respecting the claim. At first he thought it was very like one of those cases in which the claimant tried to get as much as he possibly could from the Government, considering the Government fair game to be plucked; but he had since come to the conclusion that the report of the committee was a very fair one. He was sorry to hear one or two members say that they had no confidence whatever in the report of the select committee. He thought that hon. members would agree that ever since he had been a member of the House he had always tried to save the Treasury as much as possible. If hon. members were not satisfied with the report which had been presented, instead of delegating the matter to another arbitrator, they should move some amendment. That would be a fairer way than referring the matter to another arbitrator. The Minister for Works accepted the claim of £1,200 for the value of the land resumed, which was £30 per foot for the forty feet frontage to March street, but he entirely ignored the claim for loss of rental of the right-of-way. He (Mr. Macfarlane) could see no difference between rental for a right-of-way and rental for a building. Suppose a stone building were rented upon the land resumed, the Government would have had to pay for that building, and compensate the claimant for loss of rental. Then why should they not compensate

a man for loss of rental for a right-of-way? He saw no difference whatever between the two cases. He therefore thought that £1,800, which was £120 capitalised for fifteen years, was a very fair amount to pay for loss of rental for the right-of-way. Another member—he believed it was the hon. member for Normanby, Mr. Stevenson—said he had been given to understand that the claimant had been canvassing members of Parliament to vote in his favour. He (Mr. Macfarlane) wished to say that he never saw Mr. Corser until he met him in the committee-room, and had not spoken to him since; nor had Mr. Corser in any way, either directly or indirectly, tried to influence him. Upon the whole he considered that the report was a fair one. If hon. members were not satisfied with it they were perfectly at liberty to move an amendment.

Mr. DICKSON said he regretted that from what had fallen from the Attorney-General it seemed impossible to relegate the case to the Railway Arbitrator for rehearing. From what the hon. gentleman had stated it appeared that the functions of the arbitrator were exhausted, otherwise he (Mr. Dickson) would have been very glad to have seen the case referred to the arbitrator in preference to having it decided by a Committee of the House, because he believed that that case was not the only one that might occupy the attention of the Committee. He did not think it was the function of Parliament, as a rule, to revise the decisions of the Railway Arbitrator. He would prefer to have the question re-heard by that officer, and it was solely in deference to the opinion of the Attorney-General and the hon. member for Bowen, who had informed them that the Railway Arbitrator, having exhausted his functions, it was impracticable for him to re-hear the case, that he would now propose an amendment. They had discussed the matter very fully, and he thought they had better come to some determination. He considered that £1,500 would be a very substantial recognition of the damage done to Mr. Corser's property. He could argue that out in several ways, but he would simply state that he accepted the same basis as the Minister for Works had done—namely, £30 per foot for forty feet frontage resumed in March street; that was £1,200, and to that he added 25 per cent. for severance, which made £1,500; and he thought if Mr. Corser was awarded that sum he would receive very substantial compensation at the hands of Parliament. He therefore moved that "£2,359 16s." be omitted with the view of inserting "£1,500."

Mr. FERGUSON said he had not had an opportunity of saying a word on the question, but he must state that he did not at all agree with the amount that the hon. member for Enoggera suggested. In fact, he considered the committee had recommended the very lowest sum that the House should vote or else they should grant nothing at all. He had had a great deal of experience in the value of property in different parts of the colony. He had acted on the committee, and had had an opportunity of seeing the property while on a visit to Maryborough and Rockhampton. He had made it his business to examine the land and ask the opinion of several old residents of Maryborough, most of whom were good judges of property in the town, and in every case they were of the same opinion—that if Mr. Corser got the sum he claimed he would not get too much, and that if he got the sum the committee recommended he would not get enough. If the property was his (Mr. Ferguson's) he would say to the Government, "I don't want a sixpence from you, but I will give you £1,000 to lift up the rails and leave this property as you found it." He should make that offer to the Government now or at any time. He considered there had been damage to a far greater extent than the claim made out, so that he could not see how hon. members were going to grant anything at all unless the full sum. Every member of the select committee was of the same opinion. There was not a dissentient voice in the committee when that sum was made up, but the Attorney-General happened to be away at the time, and then found fault because interest was added; but if Mr. Corser was entitled to anything at all, surely he was entitled to interest from the time the money became due. He certainly thought if the Committee granted anything at all they should not interfere with the sum mentioned in the report. He had not had an opportunity of speaking on the case before, but he was convinced that the sum agreed upon was nothing more than a fair sum to be granted to the claimant.

Mr. S. W. BROOKS said he just wished to say a few words. As a member of the select committee who attended every meeting of the committee, heard all the evidence and read all the evidence that was submitted, he wished to express the opinion that if the amount proposed to be awarded to Mr. Corser was reduced by a single pound, injustice to that extent would be inflicted upon Mr. Corser. He believed that most fully and most clearly. Indeed he had slight compunctions of conscience as to that amount. He thought the amount deducted for enhancement of value was somewhat large, and that Mr. Corser ought to have had more than the committee awarded. He hoped the amendment would not be accepted, and that the amount proposed to be awarded to Mr. Corser by the select committee would be awarded.

Mr. SHERIDAN said allusion had been made several times to the evidence of Mr. Hyne. He regretted that the Minister for Works was not in his place, but he seemed to twit the hon. member, Mr. Annear, for not having quoted Mr. Hyne. Now, he (Mr. Sheridan) would quote Mr. Hyne's evidence from page 30:—

"Richard M. Hyne, sworn: Appeared on summons from the arbitrator, who claimed him as his witness. The arbitrator read over the evidence given by the witness in May last, which he confirmed, but explained that since the May hearing he had heard the evidence taken in this court from numerous witnesses, and ascertained for the first time that Corser and Co. were in the receipt of £120 per annum rent for the right-of-way. This I did not take into consideration at the time of giving my evidence in May.

"The claimant had the right to make a frontage across his own property, and collect a toll for right-of-way from adjoining property owners. The resumption did not give the claimant any additional frontage."

Now, that coming from such a good witness as Mr. Hyne, there could be no doubt that Mr. Corser was really in receipt of £120 a year from the A.S.N. Company for the right-of-way. According to the plan of railway laid down by the hon. member for Port Curtis, Mr. Norton, and by the hon. member for Townsville, Mr. Macrossan, they each intended that the railway should stop at March street. Now, if the railway had stopped at March street and not in any way interfered with Mr. Corser's property or the property higher up the river, he would have had all he required. There would have been only March street between him and the railway terminus, and he would have taken all his goods across March street. He would have acquired the key of the position, and by holding it no doubt would have received exceedingly handsome consideration from those who owned property higher up the river for having the use of the right-of-way. There was no other person who knew more about the property in question than he (Mr. Sheridan) did. He saw it almost every day for twenty-five years, and he looked upon that block of property as the

most valuable block in all Maryborough. There was no question about it, and the most valuable section of the block belonged to Mr. Corser. Mr. Corser's block would have been rendered more valuable had the railway stopped at March street, but the greater convenience of those higher up the river was sought and injury was consequently done to that gentleman. As to using Kent street, no dray would go from the wharf up Kent street carrying more than half-a-ton. There was a very steep incline after leaving the wharf, which, as a rule, was avoided. Now, in regard to the way in which Mr. Cherry's evidence had been spoken of, he wished to say a word. He knew Mr. Cherry—he was a magistrate of the territory. He was a gentleman in every particular. He was a financial agent and confidential agent, and he was the very last man in the world who would lend himself to give any evidence that was not strictly in consonance with absolute truth. He might mention that, the Railway Arbitrator having awarded £1,005 to the Bank of New South Wales, which owned property a little higher up the river and adjoining Mr. Corser's property, the bank appealed to the Supreme Court and obtained a verdict of £2,220 with costs. Now, that proved that there was a law for the poor man and a law for the rich. If a poor man who owned only £500 worth of property had £10 worth resumed for railway purposes, was that £10 not of as much consequence to him as £10,000 would be to the Duke of Westminster. Why should not the poor man be protected; why should he not have redress; why should he not have a place of refuge—either the petty sessions court or the district court—to fly to from the decisions of the arbitrator? Mr. Corser was not a poor man, but if he had got a verdict for £501 he could have gone to the Supreme Court, and he had no doubt the verdict of the court would have been even a larger and more satisfactory sum than was given to the Bank of New South Wales, his loss having been greater. He had been assured that when that case was being tried at Maryborough, that property was visited by Mr. Justice Mein and the Attorney-General, and he (Mr. Sheridan) had before him, in writing, the words which they were said to have used on that occasion. The Attorney-General was present to contradict him if he said anything that was not strictly correct. Judge Mein said, during the hearing of the Bank of New South Wales' case, that "he had carefully examined the block, and that his opinion was that the only person entitled to substantial compensation was the one who held the key of the position—namely, Mr. Corser." The Attorney-General said, "I quite agree with your Honour." There they had from one of the judges of the land, and from their Attorney-General, an opinion that Mr. Corser held the key of the position, and that he was entitled to the most substantial compensation of anyone. He should support the recommendation of the select committee; and, as the subject had been so thrashed out and exhausted, he would say no more.

Mr. KELLETT said he hoped hon. members would fairly consider the matter before voting for the amendment. They must remember that it was not very long since the hon. member for Enoggera left the Treasury, where he had been for many years engaged in defending the Treasury against claims of all kinds. All Treasurers deemed that to be their bounden duty, and the hon. member had not been long enough away from the Treasury to get into a different frame of mind. That was, no doubt, the reason why he had moved the amendment. They had heard the remarks of the hon. member for Rockhampton, Mr. Ferguson—a practical man, who had had many transactions in property, both in land and buildings, and who had been employed as valuator on many occasions in different parts of the colony. That hon. member, and all the other members of the select committee, had no doubt given the evidence and documents brought before them the most careful consideration, and had come to what was practically a unanimous conclusion. And yet they saw the hon. member for Port Curtis get up and say he had as much right to his own opinion on the matter as any member of that committee. No doubt he had, but it would have less weight than the opinion of the weakest member of that committee. Then they had the Attorney-General, who, no doubt, in those impecunious times would like to save the Treasury if possible, saying that he was perfectly satisfied with the finding of the committee except on one very small point—the amount awarded for interest. But the claim ought to have been paid three years ago, and Mr. Corser was perfectly entitled to it. The Attorney-General himself was not the sort of man to have money out for three years and get no interest for it, and he should treat others as he wished others to treat him; and the rest of the committee were unanimously of opinion that the interest should be awarded. He was told that during his absence from the Chamber it had been announced that the case could not be sent back again to arbitration. Before going any further, he would like to know what was to be done with all those other claimants who had been as badly treated by the Railway Arbitrator as Mr. Corser. The Government were evidently satisfied now, seeing that they had transferred him to another department, that Mr. Thomson was quite unfit for the position of railway arbitrator. He would like, therefore, to hear from the Premier what was to be done with those other unfortunate men who had been treated as badly as Mr. Corser had been. He himself knew of several cases where the awards had been simply absurd, and a large number were mentioned on a former occasion by the hon. member for Logan. Did the Government intend that the decisions in those cases should be reviewed? As to the amendment, he would remind hon. members that if they cut down the award they would be throwing a slur upon the members of the select committee.

Mr. W. BROOKES said that if the hon. member for Stanley had been in his place early in the afternoon he would have heard the Premier say, in answer to a question, that he hoped to be in a position by next Wednesday to say what would be done with regard to those arbitration cases. The hon. gentleman would, no doubt, be pleased to hear that arrangements were being made to carry out his wishes.

The ATTORNEY-GENERAL said that with regard to those persons in the Logan district and elsewhere, who had had awarded to them by the Railway Arbitrator less than they thought they were entitled to, the Government had it in its power to grant a rehearing of their cases, just the same as had been done in Mr. Corser's case. They would come before the new arbitrator, and he would settle them.

Mr. BUCKLAND said he believed that, in the event of an appeal from the decision of the Railway Arbitrator, the appellant had to pay all the expenses incurred.

Mr. ISAMBERT said he had been given to understand, from the report of the committee and the discussion that had taken place, that Mr. Corser had been compelled by an arbitrary and unjust law to seek redress in that House, and that if he were given power to appeal to the Supreme Court he would not trouble the House any further. It was certainly a sad thing that when their courts of law and police protection

cost the country about £195,000 per annum for a population of 340,000 people, a paltry acre of land could not be resumed without the person from whom it was taken having to appeal to that House for redress. It cast a dreary light upon the whole of the judicial departments of the colony.

Question—That the words "Two thousand three hundred and fifty-nine pounds sixteen shillings" proposed to be omitted stand part of the question—put, and the Committee divided:—

AYES, 17.

Messrs. Rutledge, Sheridan, Kellett, Thorn, Stevens, S. W. Brooks, Adams, Salkeld, Wakefield, Isambert, Mellor, Morgan, Kates, Jessop, Annear, Bailey, and Macfarlane.

NOES, 18.

Sir S. W. Griffith, Messrs. Jordan, Morehead, Norton, Murphy, Dickson, Chubb, McMaster, Moreton, Dutton, Aland, Foxton, Smyth, White, Bulcock, Donaldson, Buckland, and W. Brookes.

Question resolved in the negative.

Pairs:—For: Messrs. Nelson, J. M. Macrossan, Lalor, Hamilton, and Pattison. Against: Messrs. Foote, Allan, Scott, Stevenson, and Palmer.

Question—That the words "One thousand five hundred pounds" be inserted—put, and the Committee divided:—

AYES, 30.

Sir S. W. Griffith, Messrs. Jordan, Rutledge, Chubb, Donaldson, Aland, Sheridan, Dickson, Kellett, Foxton, Smyth, Mellor, Isambert, White, Bulcock, Buckland, S. W. Brooks, Murphy, Thorn, Wakefield, Salkeld, McMaster, Adams, Stevens, Macfarlane, Bailey, Annear, Jessop, Kates, and Morgan.

NOES, 5.

Messrs. Morehead, Norton, Moreton, Dutton, and W. Brookes.

Question resolved in the affirmative.

Question, as amended, put.

Mr. MOREHEAD said the decision had been arrived at by a majority of six to one, still he thought it was a matter for regret that it should have been arrived at in such a way. There had been no argument brought forward why £1,500 should be awarded; it might as well have been £1,600, £1,700, or anything else. There was a principle at stake that ought not to have been shelved. If it had been faced as it should have been, he felt certain that Mr. Corser would not have got one-third of the amount the Committee had decided he was to receive. Still he supposed there would be another opportunity of discussing it; the Government would not hand over the money at once; they would wait till the money had been appropriated by Parliament.

The PREMIER: Only until the adoption of the report.

Mr. MOREHEAD; And the money would be paid at once. That was not done in the case of Mr. P. F. Macdonald.

Mr. SALKELD: That is not a precedent to take.

Mr. MOREHEAD said it ought to be a precedent when an injury was being done to the State, as he contended it was in this case. The numbers on his side of the Committee in the last division were small, but the principle for which they contended was right. He was very sorry such action was being taken, and he hoped it would not be used as a precedent. That sum of £1,500 was proposed to be awarded to Mr. Corser without any rhyme or reason. They had disregarded the award of the Arbitrator, and they had disregarded the award of a select committee of the House; and they had arrived at a particular sum without any apparent reason that he could see, except that it differed from both.

Question put and passed.

On the motion of Mr. ANNEAR, the CHAIRMAN left the chair, and reported the resolution to the House.

On the motion of Mr. ANNEAR, the adoption of the report was made an Order of the Day for Thursday next.

ADJOURNMENT.

The PREMIER said: Mr. Speaker,—I beg to move that this House do now adjourn. On Tuesday it is proposed to take first of all the second reading of the British New Guinea Bill, after that the amendments of the Legislative Council in the Queensland Fisheries Bill and the Divisional Boards Bill, and then to proceed with the Electoral Districts Bill.

Question put and passed.

The House adjourned at twenty-two minutes to 10 o'clock.