Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

FRIDAY, 20 SEPTEMBER 1889

Electronic reproduction of original hardcopy

LEGISLATIVE ASSEMBLY.

Friday, 20 *September*, 1889.

Ministerial Statement—Minister without portfolio.—Acting Chairman of Committees.—Grants to Agricultural and Horticultural Societies.—Dismissal of Dr. Kesteven.—Message from the Governor.—Dismissal of Dr. Kesteven.—Costs in Supreme Court Actions.—Supreme Court Amendment Bill—committee.—Endowment to Agricultural and Horticultural Societies—consideration in committee.—Church of England (Diocese of Brisbane) Property Bill—committee.—Caswell Estate Enabling Bill—committee.—Stafford Brothers Railway Bill—committee.—Adjournment.

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

MINISTERIAL STATEMENT.

MINISTER WITHOUT PORTFOLIO.

The PREMIER (Hon. B. D. Morehead) said: Mr. Speaker,—I have to inform the House that Mr. Powers, member for Burrum, has joined the Ministry, holding a seat in the Executive Council without portfolio.

ACTING CHAIRMAN OF COMMITTEES.

The PREMIER said: Mr. Speaker,—I beg to move, in the unavoidable absence of Mr. Jessop, that Mr. Arthur Morgan, member for Warwick, take the chair as Chairman of Committees for this day's sitting only.

Question put and passed.

GRANTS TO AGRICULTURAL AND HORTICULTURAL SOCIETIES.

Mr. FOXTON presented a petition from the Border Agricultural and Pastoral Association, praying for additional assistance to be given to agricultural and horticultural societies; and moved that it be received.

Question put and passed.

DISMISSAL OF DR. KESTEVEN.

Mr. SMYTH, in moving—

That there be laid on the table of the House, all papers, reports, and correspondence in connection with the dismissal of Dr. Kesteven, as medical officer in Brisbane to the Government—

said: Mr. Speaker,—When I gave notice of this motion, I knew nothing about the case beyond what I had seen in the Brisbane papers. Having been acquainted with Dr. Kesteven in Gympie, he asked me if I would ask to have these papers

put on the table, and I told him that I would do so, adding, that if they contained anything damaging to himself he would have to put up with the consequences. I did not then know what was in them, but I have since been told by the Chief Secretary that the papers are that bulky, that even if they were put on the table very few persons would read them. He also said that if I would go to the Colonial Secretary's Office I could see them for myself. I went there and spent an hour with Mr. Ryder, who was very particular in showing me the material portions of the papers; but to go through the whole of them would take half a day. I found out that the two principal charges were in connection with a case that occurred at the reception house, and in connection with irregularities at the South Brisbane Gaol. From inquiries I made in reference to the first charge, I found that a certain person, who has since left the colony, was taken to the reception house when not insane; but that he had been under medical treatment previously, and was in a very peculiar state, and was, in fact, out of his mind to a certain extent. A medical man at Brisbane had this man sent to the reception house, and Dr. Kesteven saw him after he was in the reception house. The man wrote a long letter to the Colonial Secretary making charges against these medical men. He stated that he had not tasted drink, and was suffering from the effects of an operation. I found out afterwards that that statement was not true, that the man had been suffering from drink, and one medical man in Brisbane said he was suffering from *delirium tremens*. There are some charges against Dr. Kesteven in connection with the penal establishment at Brisbane. Well, Mr. Speaker, no doubt there were some irregularities in connection with two prisoners in that gaol, but I think the gaol officials were as much to blame as Dr. Kesteven. I think the gaol officials were perhaps more to blame, because they were on the spot to see that these things did not occur. There has been a great deal of friction between the doctor and the department, and it was hardly likely that the Chief Secretary should table all the correspondence. It has been the custom that everything has worked amicably between the Government departments and medical officers. Drs. Wray, Marks, and Hobbs have always worked amicably, but there has been a great deal of friction between Dr. Kesteven and the Government departments. He is a man of rather erratic disposition, and somewhat peculiar in his ways. Perhaps the Chief Secretary would pick out the most important portions of the correspondence which could be put in a small compass, printed, and laid on the table of the House. It would satisfy members of the House, it would satisfy persons outside the House, and would probably satisfy Dr. Kesteven. If the papers are damaging to the doctor himself he is quite willing to put up with it. If he has done anything which is wrong, let it fall on his own head. I do not know the merits or demerits of the case. I am not defending Dr. Kesteven, nor do I know anything beyond what I have seen in the papers. I told him the papers were so bulky, that it was impossible for me to examine one-tenth of them. I will now give the Chief Secretary a chance to state his portion of the case.

MESSAGE FROM THE GOVERNOR.

The SPEAKER announced the receipt of a message from the Governor, forwarding, for the concurrence of the House, a Bill to make special provision for the expenses of the retiring allowance to William Leeworthy Good Drew, in the event of his appointment as chairman of the Civil Service Board.

On the motion of the PREMIER, the consideration of the message was made an Order of the Day for Monday next.

DISMISSAL OF DR. KESTEVEN.

The PREMIER said: Mr. Speaker,—The papers connected with the various cases in which Dr. Kesteven has come into collision with various authorities are of a very voluminous nature; as big as any two volumes I see in front of me on the table. The hon. gentleman has made out, so far as I can see, no case why those papers should be produced; but if they are to be produced, they must be produced in their entirety, not only in justice to the Government who have dispensed with the services of Dr. Kesteven, but possibly also in justice to Dr. Kesteven himself. I have no doubt that a blister is a proper thing to apply to a person who is suffering from irritation, as a counter irritant; but a perpetual blister, like Dr. Kesteven was to me, I could not stand.

The HON. SIR S. W. GRIFFITH: He was appointed by the present Government.

The PREMIER: I am aware of that. The hon. gentleman is quite right in saying he was appointed by the present Ministry; but I regret very much that he was appointed. I certainly could not stand this counter irritant, and I got rid of him for good and sufficient reasons. If the papers are laid on the table, I hope hon. members will not ask or try to get them printed, because really the waste of public money that would take place in printing those papers would be out of all proportion to any good purpose that would be served. Dr. Kesteven was very well treated by the Government. He had almost too much rope. However, he got rope enough at last to hang himself. I think the hon. member will be wise if he withdraws this motion. No good can come out of it to Dr. Kesteven if the papers are put on the table, and certainly the Government will not consent, either in the interests of themselves or Dr. Kesteven, to an expurgated edition of the papers being put on the table. There has been inquiry after inquiry into this gentleman's conduct, until at last it was found absolutely necessary to remove him from office. Even if nothing else had induced the Government to remove him, I think the last letter but one that he addressed to the department was enough to induce any Colonial Secretary with a spark of honour or respect to dismiss him at once, and that was done. In fact, it was done before the letter was received, because it was given to the Press before it was in my hands. After that Dr. Kesteven requested that he should be allowed to retire on a quarter's salary. That course of procedure was not agreed to by the Government; in fact, I may say it was not considered of sufficient importance by me to bring it before my colleagues, or ask their consideration of the matter at all. Dr. Kesteven's conduct has not been at all satisfactory, and I hope the hon. member will not press this motion. It will simply mean putting on the table a large body of papers which any hon. gentleman can see for himself at the Colonial Secretary's Office. Dr. Kesteven has been most leniently treated, and if I was on the Opposition side of the House, I should say he had been most improperly treated by the present Government.

The HON. SIR S. W. GRIFFITH said: Mr. Speaker,—I am afraid these papers are more condemnatory of the Government than is generally thought.

The PREMIER: I daresay you are right.

The HON. SIR S. W. GRIFFITH: Not because Dr. Kesteven was dismissed, but because he was not dismissed some time before. I do not know

that his dismissal is a sufficient reason for asking for the papers, as I do not think there is any suspicion of his having been unjustly treated in his own interests, though he may have been unjustly treated from another point of view. I do not think it is worth while calling for these papers. I have myself no curiosity, other than perhaps an idle curiosity, to see them, and that would not be a sufficient reason for asking that they should be laid upon the table. I quite agree with what the Premier said as to the last letter from Dr. Kesteven, which was published in the papers. It was quite inconsistent with Dr. Kesteven holding office for one moment after that letter came into the hands of the Premier, and I was very glad to see the action that was taken upon it.

Mr. McMASTER said: Mr. Speaker,—I think very few members will go to see these papers at the Colonial Secretary's Office, though there are many people who would like to see something else in connection with Dr. Kesteven. They would like to see his back, and many of them wish they had never seen his face. The only wonder is that he was ever appointed to the position he lately held. I know a number of people in Brisbane who would have been very much better off if Dr. Kesteven had never been in Brisbane—myself for one.

Mr. SMYTH, in reply, said: Mr. Speaker,—It is quite evident that Dr. Kesteven has not many friends in this House. I think it would be quite useless to go on with the motion asking that these papers should be laid on the table of the House, after the statement made by the Premier that any member who desires to do so may see them at the Colonial Secretary's office.

The PREMIER: Yes; they are quite welcome t o do so.

Mr. SMYTH: I think that is as much as I can ask under the circumstances. I do not wish to say any more on the subject, and as I wish the business of the House to go on, I beg leave to withdraw the motion standing in my name.

Motion, by leave, withdrawn.

COSTS IN SUPREME COURT ACTIONS.

Mr. SAYERS said: Mr. Speaker,—I would like to ask the Premier whether there is any objection to the printing of the return of costs in Supreme Court actions, which has been laid on the table of the House?

The HON. SIR S. W. GRIFFITH: I was going to make the same request.

The PREMIER said: Mr. Speaker, — I have no objection at all to have the papers printed if it is the desire of the House. I think it is evident that most members would like to have them printed. It is a mere matter of expense, and as the return involves a principle, I beg now, with the permission of the House, to move that the return to an order relative to costs in Supreme Court actions, as laid upon the table of the House on Tuesday last, be printed.

Question put and passed.

SUPREME COURT AMENDMENT BILL.

The HON. C. POWERS said: Mr. Speaker,—I beg to move that you do now leave the chair and the House resolve itself into a Committee of the Whole to consider this Bill in detail, and in doing so I may mention that from the last discussion that took place on the Bill it is probable that some of the clauses may be omitted, in view of the provisions of the Districts Courts Bill which is before the House. I think, however, that the House will probably agree that the matter of contempt of court and some other matters dealt with in this Bill.

Question put and passed.

COMMITTEE.

The preamble was postponed.

On clause 1—"Interpretation of terms"—

The HON. SIR S. W. GRIFFITH said he would take that opportunity of congratulating the hon. gentleman in charge of the Bill upon the seat he occupied as a member of the Government of this colony. He must congratulate the Government also upon the accession of strength they had gained by the hon. gentleman's appointment—an accession of strength which they badly needed.

The PREMIER: You need not have said that.

The HON. SIR S. W. GRIFFITH said he wished to ask the hon. member how he proposed to deal with the Bill, because the interpretation clause and some other of the following clauses would not be wanted if some or a great many of the clauses were to be omitted. He would suggest that the hon. member should postpone the first four clauses under the circumstances. They would not waste any time by that.

The HON. C. POWERS said he had on objection to postponing those clauses, but he would point out that if either clause 15, 16, or 17 was passed those provisions would be necessary. He thanked the hon. gentleman for the compliment he had paid him in reference to his appointment as a member of the Government. With the permission of the Committee he would withdraw the motion that clause 1 stand part of the Bill.

Motion, by leave, withdrawn.

On the motion of the HON. C. POWERS, clauses 1 to 4, inclusive, were postponed.

On clause 5, as follows:—

"No Supreme Court writ shall hereafter be issued where the plaintiff's claim does not exceed thirty pounds, unless the sanction of a judge of the Supreme Court has been first obtained to such writ being issued in the said court, or unless the writ is for service out of the colony."

The HON. C. POWERS said he intended to ask the Committee to negative that clause, because, as the leader of the Opposition had pointed out, the question could be dealt with in the District Courts Act Amendment Bill which had been introduced by the Government. There was, therefore, no need to discuss it on the present occasion.

The HON. SIR S. W. GRIFFITH said he presumed the hon. gentleman would have charge of the District Courts Act Amendment Bill, and he would take that opportunity of pointing out to him that they had had a very good law dealing with these matters in the Costs Act. There were very stringent conditions in that Act, and he did not think any cases of abuse had occurred under it. It was held that that statute was repealed by the Judicature Act, but it was very doubtful whether it was intended to be repealed. The Act was still on the statute book.

The HON. C. POWERS said he looked at that question in a different light from that in which it was regarded by the leader of the Opposition. It was not altogether a question as to whether plaintiffs could extract costs. Writs should not be allowed to be issued for very small sums. At present writs for £5, or even £1 10s., up to £10 or £15, were issued against country people, who sometimes received a writ demanding £4 14s. 6d. in addition for costs. That was what he wished to prevent, and the only way he saw of doing it, if the issue of Supreme Court writs for such small sums was to be allowed at all, was to provide that a nominal sum should be mentioned on the writ for costs. He would give attention to the suggestion made.

The whole question could be discussed when they came to consider the District Courts Act Amendment Bill. In the meantime, clause 5 could be negatived.

Clause put and negatived.

On clause 6, as follows :—

"No action shall be brought in the Supreme Court against any person where the amount claimed does not exceed five hundred pounds, and the district court has jurisdiction to hear and determine such action if such person objects thereto, and if within the time limited for entering an appearance to any writ of summons in any such action in the Supreme Court, the person sued or his solicitor or agent gives a written notice to the plaintiff and to the registrar of the Supreme Court that he objects to being sued in such Court, no proceedings shall be afterwards had in the Supreme Court in such action."

The HON. C. POWERS said he proposed to negative that and the following clause for the same reason as clause 5 had been negatived—namely, that those matters could be dealt with in the District Courts Act Amendment Bill. There would be less difficulty in dealing with it in that measure, by adopting the suggestion thrown out by the leader of the Opposition. Instead of giving parties the power to say, "I won't go to the Supreme Court," it would be better to give power to the court to order that the cases should be tried in the lower court, unless cause were shown why they should be tried in the higher court. There was, therefore, no necessity to pass clause 6. In asking the Committee to negative it, he might point out that that provision was introduced before the District Courts Act Amendment Bill was brought forward, and he wished to have some legislation on the question.

Mr. TOZER said would it not be better to withdraw the Bill altogether? If there were any clauses in it which they desired to retain, the hon. gentleman himself or any other member could move that they should be inserted in the Supreme Court Bill which had been introduced by the Government. There were two Supreme Court Bills on the paper, one introduced by the hon. gentleman and another by the Government. The public should be considered a little in that matter, and they would not understand finding two Supreme Court Amendment Bills passed in one session; they had to consider that question. For instance, at some future time somebody might say, "You turn up the Supreme Court Amendment Act of 1889," and they would naturally turn up the first amending Act. It struck him whether, from the peculiar position the hon. gentleman now occupied, having accepted an office in the Government, it would not be wise, if the Government would not do it, for some hon. member who held the views of the hon. member for Burrum, to move that these additional clauses should be inserted in the Government Bill. It would simplify matters if that were done, and it would be very much in the interests of justice.

The HON. C. POWERS said with reference to the suggestion thrown out by the hon. member for Wide Bay, he would remind hon. members that that measure was introduced by him (Hon. C. Powers) as a private measure, when he had not the slightest idea of being appointed a member of the Government. If he had had any idea of that kind he would have tried to have had those clauses inserted in the Government Bill; but at that time nothing more was suggested by the Government than the introduction of a Bill for the appointment of a second Northern Supreme Court judge. Nothing was said about contempt of court, and he did not know now whether the Government had any intention of dealing with that question. It had never been discussed by them, so far as he knew. He did not think the afternoon would be wasted if they discussed some of the questions raised in that Bill. Some other matters they might very well postpone, with the view of introducing them in the Government measure, if the Government approved of them. But he did not think that the question of contempt of court should be left over to delay the passing of the Government measure. There were some matters in the Bill before the Committee which were very debatable, and the question of contempt of court was one of them. He had not spoken to the other members of the Government upon the subject—he had only been a member of it for a few hours; but was willing to adopt the suggestion of the leader of the Opposition, if it were feasible, and there was no objection on the part of the Committee, to postpone the clauses that had been referred to. Clause 8 was one which he would most certainly like to see passed, either in the present Bill or in the Government measure dealing with the Supreme Court. He saw no reason why they should not discuss the different clauses of the Bill, so that he might hear some expression of opinion as to which of them were approved of, and which were considered should be included in the Government measure, because the hon. member for Wide Bay had distinctly stated which he approved of, and he approved of a great many of them. But the leader of the Opposition had not expressed that approval. He did not wish to ask the Government to delay the Government measure, and did not think, considering what private business there was on the paper, that it would be a waste of time to discuss the question of contempt of court, and some other matters dealt with in the Bill before them. The question at present before the Committee was that clause 7 stand part of the Bill, and considering that the subject it referred to had to be discussed in the District Courts Bill he would like to hear the opinion of the leader of the Opposition upon the point raised by the hon. member for Wide Bay.

Mr. HODGKINSON said he was glad the Government had seen the position they occupied, and that the hon. gentleman had said that if he could have foreseen what had happened, his action would have been different. The Committee had been asked to discuss two Bills relating to the same subject, and the hon. member for Burrum did not confess to seeing any difficulty in including the valuable provisions aimed at by the Bill before them in that introduced by the Government. Considering the official position of the hon. gentleman in connection with the Government, they were bound to take his advice as to their legal action in Parliament. The hon. member for Wide Bay had made some very grave objections, and if those objections were so very grave to the legal members of the Committee, how much greater must they be to lay members. He could see that one effect of the Bill would be to drive a large amount of practice "willy-nilly" from the Supreme Court to the district courts, and in many cases a suitor who might wish to defend himself would be handicapped at once by being restricted in his choice of legal assistance. That was a very grave matter, and the hon. gentleman might depend upon one thing: that whatever expressions of opinions he might obtain upon this Bill, when the original Government measure upon the same subject was introduced, it would give them a much more general view of the subject, in regard to the effect of the various provisions which could be introduced into that Bill, to make it harmonious with the views introduced by the Government. At the very tail end of the session they were called upon to discuss two measures of supreme importance, affecting the system of the judicature

of the colony, and which certainly would not be readily comprehended by anybody but a purely professional man. The hon. member acknowledged that could he have foreseen the position he occupied, instead of having to undergo the labour of bearing twins, he would have introduced but one Bill.

The HON. SIR S. W. GRIFFITH said that the intentions of clause 8 were very good, as he had said before; but he did not like the way the clause was framed. It apparently provided for *ex parte* applications. He had no objection to discuss the clauses relating to contempt of court; but did not think the hon. gentleman would be able to pass them in their present form, or anything like it, as the objections were too numerous. That was the most important part of the Bill.

Mr. TOZER said in regard to any clauses that he might have expressed approval of upon the last occasion the Bill was before them, if the hon. gentleman was in any way embarrassed by the position he now found himself in, he (Mr. Tozer) certainly, from his position in the Committee, would deem it his duty to remove those difficulties. Whatever those clauses were which he had expressed approval of, he should endorse his opinion by moving them as substantial clauses in the Government Bill. Some clauses he did not care about, and those of course he should not move.

Clause put and negatived.

On clause 8, as follows :—

"It shall be lawful for any person against whom an action of tort is brought in the Supreme Court to make an affidavit that the plaintiff has no visible means of paying the costs of the defendant should a verdict be not found for the plaintiff; and thereupon a judge of the Supreme Court shall have power to make an order that unless the plaintiff shall within a time to be therein mentioned give full security for the defendant's costs to the satisfaction of one of the registrars of the Supreme Court, and satisfy a judge of the Supreme Court that he has a cause of action which cannot properly be tried in the district court or the small debts court, all proceedings in the action shall be stayed, or in the event of the plaintiff being unable or unwilling to give such security, and failing to satisfy a judge as aforesaid, that the action be remitted for trial before a court to be named in the order, and thereupon the plaintiff shall lodge the original writ together with a plaint setting out the cause of action and the said order with the registrar of such court, who shall appoint a day for the trial of such action, notice whereof shall be sent by post or otherwise by the registrar to both parties or their solicitors; and the action and all proceedings therein shall be tried and taken in such court as if the action had originally been commenced therein, whatever the amount of the plaintiff's claim may be; and the costs of the parties in respect of the proceedings subsequent to the order of the judge of the Supreme Court shall be allowed according to the scale of costs for the time being in use in the court to which such case is sent, and the costs of the order and all proceedings previously thereto shall be allowed according to the scale of costs for the time being in use in the Supreme Court."

The HON. C. POWERS said, in moving that the clause stand part of the Bill, he must admit that there was a very great amount of difficulty in dealing with the matter; but he felt that it would be very wrong of him at any rate to throw the Bill over and simply say, now that he was a member of the Government, "I do not intend to go on with the matter I have brought before you." He sincerely hoped that the subject would be discussed. Clause 8 was one that might well be introduced into the Government measure, and the position was this: that if that and some other clauses were not introduced into that measure, a private measure could not be carried through the House now. Therefore, with a view of having clauses 15, 16, and 17 discussed, he would move that the clauses preceding them be postponed. When clause 15 was before them, the leader of the Opposition said there was a great deal of difficulty in regard to it. He admitted that; but the hon. gentleman said he had already given the matter some attention. The public and many members of that Committee had stated their desire that the question should be dealt with in some way, and if they received nothing beyond an expression of opinion concerning it, so that they could arrive at some way of dealing properly with the subject of contempt of court, much good would have been done. He need not speak upon the clause before them; but when they came to clause 15—considering that there was another Bill in which the clauses he proposed to postpone might be included if the Committee desired it, and if any hon. member moved their insertion—he hoped there would be some discussion. He moved that clauses 8 to 14, inclusive, be postponed.

Question put and passed.

On clause 15, as follows :—

"If any person shall wilfully insult the judge or any juror or registrar, bailiff, or other officer of the Supreme Court for the time being during his sitting or attendance in court or in going to or returning from the said court, or otherwise misbehave in court, it shall be lawful for any bailiff or officer of the court, with or without the assistance of any other person, by order of the judge, to take such offender into custody and detain him till the rising of the court, and the judge shall be empowered, if he shall think fit, by a warrant under his hand and sealed with the seal of the court, to commit any such offender to any gaol or lockup nearest to the said court for any time not exceeding seven days, or commit such offender for trial for contempt of court before a judge and jury, or such judge may impose on such offender a fine not exceeding twenty pounds for every such offence, and in default of payment commit the offender to any such prison as aforesaid for any time not exceeding seven days, unless the said fine be sooner paid."

The HON. C. POWERS said that was a question dealing with contempt of court, and as he had stated on the second reading, the clause was an attempt to deal with a subject which had caused a great deal of trouble and difficulty, not only in that colony but in all the colonies—less, perhaps, in Queensland than in the other colonies. But the very fact that the judges had uncontrolled power to fine to any extent, and to imprison for, at any rate, three years—possibly for fourteen years—had led the public to call out through the Press of the colony generally that an attempt should be made to deal with the question. Such attempt was made in that clause, which provided that if the offence was one of a very serious nature the judge should not have the power to fine or imprison, but should commit the case for trial before a jury. It had been objected that at such a trial the judge might be called upon to give evidence, but the question they had to face was whether there should be some limit—there was none now—placed on the power of the judges to fine or imprison, and if the Committee could arrive at some conclusion on that point, it would be the first step, at all events, towards dealing with the subject. If, as some hon. members contended, judges should continue to have that power, it would be important to the public to know to what extent the judges could go. Of course, in the case of an insult to, or an assault on, a judge, some speedy remedy should be allowed in the hands of the judges. In all other cases of contempt of court, the Committee should, he thought, insist upon some control being put on the power of the judges. The clause, with the exception of the words—

"Or commit such offender for trial for contempt of court before a judge and jury"—

had been in force for twenty-two years in connection with the district courts—it was copied from the District Courts Act—and no difficulty had ever been heard of in connection with the

district court judges. The district court judges only had power to imprison for forty-eight hours, and to fine up to £5 or £10. The clause gave the Supreme Court judges power to inflict a fine not exceeding £20, and to commit to prison for a term not exceeding seven days. If they wished to go beyond that, they would have to go to a jury. If the amount of power was not considered ample, it might be raised to a fine of £100 and a month's imprisonment. While admitting that judges should be protected in their office, he contended that they ought not to have unlimited powers of fine and imprisonment. The clause did not attempt to deal with questions of contempt for disobedience of orders, or neglecting to obey orders, made by the judges; but with those other forms of contempt which often happened suddenly, and in which the judge acted as both judge and jury often very hastily. The question had been raised in what was known as the Wilson and Cooper case. In that case the judge called upon the man at once to come and appear before him, and because he did not go at once the judge held that that was a contempt of court. If a judge had the power to hold that that was a contempt of court he had the power to hold that anything was a contempt of court. Of course the judges were really the persons to say whether anything that appeared in a newspaper was contempt of court; they had that power throughout Australia, and it had been admitted in the case to which he had alluded. It was the duty of the Committee to see whether they could not remedy the grievance that undoubtedly existed, and with the idea that the clause in question would effect something in that direction he moved that it stand part of the Bill.

The HON. SIR S. W. GRIFFITH said the question of contempt of court was a very large one. It was a term that embraced a great many different things, and the hon. gentleman had directed his attention to only one particular branch of the subject. One kind of contempt was disobedience to the orders of the court. The only way to compel a man to obey them was to punish him if he did not, or to put him in a place where he could not do what he was forbidden to do. He understood the hon. gentleman did not propose to interfere with that. Another kind of contempt of court was an interference with the administration of justice by something done in the court while it was sitting, or by obstructing the business of the court, as, for instance, making a great noise outside, or doing anything which would prevent the business from being carried on. It was obvious that to secure the administration of justice there must be power somewhere to put a stop to such things, and to deter persons from doing them. It was very difficult to define the magnitude of an offence of that kind. A man might come into court and make some insulting gesture to the judge, or he might come in drunk and disturb the proceedings, and do a variety of things of that kind; or a man might make such a noise in the street that it was impossible to carry on business. It might be said that those were matters of a trivial character; but it was not easy to distinguish between what was trivial and what was important in contempt of court. A man might threaten the judge in court; that would be a very serious contempt. Suppose a man attempted to fire at a judge, or suppose—what happened to himself—that a man stood at an advocate's side with a loaded revolver in his hand. Those things could not be put in the same category. The offence varied according to the circumstances. It was absolutely necessary for the administration of justice that the judges should have power to inflict immediate punishment. He believed the greatest punishment ever inflicted for contempt of court by the present Chief Justice during the fifteen years he had held a judicial position, was to imprison a man from the rising of the court till the next morning. Another kind of contempt was a large one—that of interfering with the administration of justice by endeavouring to prejudice the court or the jury. That was a very different thing from what was dealt with in the clause. Supposing during some trial some person deliberately published, daily, letters in a paper commenting upon the case, and endeavoured to prejudice the trial, or that immediately before the trial he commented upon the case, that was a contempt of court by an interference with the administration of justice, of a very heinous character. It was all very well to say that they could try the individual before a jury afterwards, but in the meantime the mischief would have been done, and, in such a case, the object of the law was not so much the power of punishment as the power of preventing such interference with the administration of justice in the future. When anyone by comments, either written or oral, endeavoured to intimidate a juryman, there must be power to deal with the individual immediately, but the clause did not provide for that case at all, except to take away the power of the judge to deal with it. Then another class of contempt of court entirely distinct from the others, was that of commenting upon the judge, or upon the manner in which the duties of the court had been performed by the judge or jury, or by the officers of the court. He confessed he had no sympathy with the jurisdiction the judges exercised in such cases, and those were the cases which generally gave rise to public scandal. Then another class of contempt of court was that in which a person interfered with a ward of the court. In England there were many persons who were wards of court, and a man might get hold of an heiress and run away with her. That was an interference with the court, and was treated as contempt of court, though the hon. gentleman's clause did not deal with that branch at all. He only dealt with cases of contempt which took place in the presence of the court.

Mr. O'SULLIVAN: Running away with an heiress is not a contempt of court.

The HON. SIR S. W. GRIFFITH said it was punishable as such if she was a ward of court. A man could be put in gaol in England for doing so, and he was not let out until he had made a settlement. That was a very useful power; but the hon. gentleman in framing that part of the Bill had only had in his mind the question of contempt of court committed in the face of the court, as it was called. The subject was a very complicated one. The Minister for Mines and Works had asked the other day why he (Sir S. W. Griffith) had not introduced a Bill dealing with the subject some years ago, and he had also asked the same question about the Defamation Bill; but his experience had been that in dealing with such a subject as that, it had to be considered fully before matters of detail could be entered into. He always thought out a matter in all its bearings for some considerable time—in some cases for a year or two—and by degrees the different parts somehow seemed to crystallise themselves into shape. That was what he always found it necessary to do before he attempted to formulate anything important in a Bill, and it would take him much longer than had been taken by the hon. gentleman in charge of the Bill before he could attempt to prepare a Bill upon such a subject as that. He did not know any place in the world where an attempt had yet been made to formulate a measure limiting the powers of the judges in that matter. Certainly that was no reason why it should not be done now;

but it was an indication that many people had thought it a very difficult thing to do, and one which required a great deal of consideration before it could be carried out. He confessed he did not like the power that was sometimes exercised by judges, although in Queensland they had been, fortunately, comparatively free from any scandalous abuses of power. Several scandalous cases of such abuse had, however, occurred in the neighbouring colonies, such as the case referred to during the debate on the second reading of the Bill by the hon. member for Toowoomba. That hon. gentleman had referred to a case in New South Wales, where a man had been sentenced to twelve months' imprisonment for contempt of court, for wilfully getting drunk during the hearing of a case in which he was a witness. It might be true that he had been guilty of a conspiracy to defeat the ends of justice by getting drunk, but there had been no evidence heard before the judge in support of that charge, though that was what he had been punished for. What should have been done was to lock up the jury till next day. Then the man should have been confined during the night, so that he might have been got into the court sober on the following morning, which would have served all the ends of justice. Practically what the judge did was to let the criminal go free, and punish an innocent man. Certainly he had the same number of men in gaol, but he had the wrong man. He (Sir S. W. Griffith) did not propose going into the matter at great length; but he had pointed out at least four entirely different kinds of contempt of court, which all required to be differently treated. It was very dangerous to attempt to deal with the matter without a fuller knowledge than any of them had at present of the whole subject. He was not so familiar with what was the law on the subject as he should like to be. The first thing to do before altering the law was to make yourself thoroughly familiar with the existing law on the subject, and note what amendment needed to be made in the existing law. Very likely there were other branches of contempt of court which he had not mentioned, but he was not sufficiently familiar with all the existing law to call to mind any other just then; but all the different branches required different treatment. Propositions ought first to be laid down defining distinctly what was a contempt of court, and then they could afterwards lay down within what limits the power of punishment for contempt of court should be exercised. That was the proper way to treat the subject, though he was not prepared to do that now.

Mr. TOZER said, during the debate on the second reading of the Bill, he had intimated that he would be compelled to oppose those clauses, and his opinion remained unaltered, after having made careful researches on the subject. The question to be considered was, whether the punishment was merely for the act committed, and in that light might be regarded as merely a punishment of the individual, or whether the punishment was to act as a deterrent to keep people from interfering with the administration of justice. Of course a great deal could be said on both sides, but there was a great difficulty. The hon. gentleman now proposed to inflict a salutary punishment upon persons who insulted a judge in the court, but it would also deal with matters far more serious than that. He proposed that a person should be summoned to appear before a jury, and of course in that case the judge could be brought as a witness by the person accused, or he might be called as a necessary witness for the prosecution. The Chief Justice, for instance, might be trying a case in Normanton, and have to charge a man with contempt of court. The hearing of that case might come on in Townsville some three months afterwards, and the Chief Justice would necessarily have to submit himself to be examined and cross-examined by such counsel as might happen to be present at the sittings of the court. It would tend to lower the administration of justice, if once they took their judges from the bench, and stuck them into the witness-box to be brow-beaten by counsel. There was no necessity for that, but that was what it would tend to. He wanted to see the course of justice run smooth and true. He fully understood the feeling which had induced the hon. gentleman to bring in those clauses—to take the power out of the hands of the judges; but he wished to point out that where any abuse of that power by the judges had occurred, it was owing to the bad appointment made by the Government. He did not refer to this colony, for during his many years' experience in Queensland, there had been no abuse of that power, except perhaps in the case which occurred at Bowen. He knew nothing of the details of that case; but in New South Wales he knew there had been cases of abuse, and upon investigation it would be found that in every case the cause lay in the unfitness of the judge who had been appointed owing to political considerations. Let the legislature think more of the appointments of the individual, and then there would not be any necessity to alter the system of conduct of court. It was a system which in England had borne good fruit. They never heard from that place of the abuses they heard of in the colonies. Take the case of Queensland. He remembered a case of a man named Diplow who would not produce certain specimens in court. He remained for six or seven years in gaol because he was obstinate, and would not yield, and at last the Government let him go free. That was downright obstinacy, but they had righteous judges at that time, and there wa no public demonstration against the confine ment of that man, because the public felt the judges were exercising a wise judgment. That man was debarring another from getting the fruits of his discovery, and the judges said, "If you will apologise to the court we will let you go free." He would not, and remained in gaol for some years. He (Mr. Tozer) had been endeavouring to ascertain what particular course was adopted in this colony, and he found that, with one or two exceptions, which were those of eccentric judges, the judges had been most anxious to avoid exercising the power to punish for contempt of court. There was the Chief Justice, for instance. He was a man of common sense, and although he felt at times that he had to take a stand, his bark was a good deal worse than his bite. He had heard him explain to a man that he must obey the decrees and orders of the court, and if he would express his sorrow for what he had done, he could go free. That was the only case in which the Chief Justice had committed for longer than the rising of the court. He (Mr. Tozer) thought they were getting a little too much into the radical school, and beginning to alter what others had found it difficult to deal with. For his own part he professed a liberal policy, and not a radical policy. He recognised the evils which the hon. gentleman was trying to remedy, but he was afraid he was going in a wrong direction, and that if such provisions were agreed to, the administration of justice would not be carried out as it was at the present moment. If they relaxed the rules prohibiting people from writing about cases that were going on in court, and took away the judges' power to stop persons interfering with the action of juries, the result would be that they would not have the verdicts so satisfactory as they were at the present moment. He hoped the hon. gentle-

man would be satisfied with the discussion; and if it was necessary to deal with the matter, let it be put in in the other Bill, and let the Government bring it in as a Government measure.

Mr. HODGKINSON said he was glad to find that the hon. gentleman in charge of the legal business of the Government was not afraid to enter into matters of legal reform. They had been too much accustomed to those conservative arguments, from the most conservative profession in existence. The courts had been hedged round with those restrictions at a time when they were necessary; but the state of affairs now was utterly different. With regard to the eccentricities of judges, they were men, after all, and they were as much liable to eccentricity as other men. The very fact of investing a man with a judge's robe did not detract from his human personality. They had had judges who were as fond of butter as some professional politicians were of Press pabulum. He held in his hand a few remarks bearing on this subject, which he wished to place on record. There was no doubt that the evils complained of in England and all over the civilised world were the result of the appointment of judges for life. That was essential in former days, but the reasons for their appointment for life had now ceased to exist. The case mentioned by the leader of the Opposition, where two men were sentenced to twelve months' imprisonment for the nominal crime of drunkenness, was a most singular one. It was doubtful whether drunkenness was a crime, but there was not the slightest doubt that twelve months' imprisonment for it was unheard of severity, and was not to be palliated by any legal argument. What was the real history of the case? Those men were not punished for drunkenness. That was the charge on which they were brought before the judge, but they were punished because it was supposed they had got drunk for the purpose of defeating the ends of justice. There was not the slightest doubt that that was a grave offence, but what legal gentleman would argue in favour of inflicting twelve months' imprisonment for a venial offence, in order to indirectly punish for another offence of a totally different character? If a man committed the offence of attempting to defeat the ends of justice, that was an offence *per se*, and the law must recognise such an offence. These were the views on that subject which had been prompted in the mind of a certain writer:—

"When a member of Parliament proves a failure you can defeat him at next election, and when a dog makes a howling nuisance of himself, you can shoot him; but when a judge spreads desolation over suitors and airs his cranks and incapacity to the disaster of everything within reach, you must put up with him till he wafts himself off to Heaven."

During a discussion the other day, reference had been made by his hon. friend the leader of the Opposition, to the fact that a lawyer might fall from Heaven. There were some doubts expressed on that point, whether he would be able to get there, or having got there, whether he would be fool enough to come back to his natural sphere. The writer goes on to say—

"There is nothing personal in this reflection."

That was put in with a view of the probable consequences of an action for libel, as it was on record that a person who had written an article in good faith in the interests of the public morality with respect to certain proceedings that took place at a place of public resort was fined and sentenced to a long term of imprisonment. He got just law. He did not get justice.

"Australian judges in every jurisdiction are men of unimpeachable probity, marvellous acumen, and lustrous reason. They voice perfect judgments, and rule their courts with a quiet dignity and sublime moderation. But it is the duty of journalists"—

As it was the duty of members of that Committee—

"to peer with the telescope of discernment through the haze of the future, and, in fulfilment of this task, we are able to discover that, if the present system is continued, there will, in years to come, be wrong-headed ignoramuses and vehement fanatics wearing the wigs of judges and causing loss and discontent by their foolishness and violence."

As there had been in the past, not in this colony, but in other less happy colonies where the selection has not been so perfect.

"And as nothing short of corruption accomplished is now held to be sufficient cause for the removal of a judge, these Daniels, if ever appointed, will be fixed for life in positions which they will not be able to hold with honour to themselves and advantage to the community. In view of such a danger, it becomes a big question whether the system of giving judges a tenure of office for the term of their natural lives—second childhood included—is altogether a good idea. It obtained vogue when judges were only moderately honest, and when bribery by kings who were not at all honest was the chief danger to be apprehended. But State bribery of their honours has become impossible; the main evils now to be prevented are those arising from crassness, incapacity, and unconscious bias to the nominees to the bench. And these evils are not sufficient to serve as a foundation for the address of both Houses, which is the only means—assassination being improper and illegal—of removing a judge to some cool place of obscurity where he can be kept out of mischief. It is necessary to give judges freedom in the exercise of their duties; but the present conditions insure so great an excess of freedom that the judges could all put on frills of the largest size and most offensive description if they were so minded."

It was a fact. It was nothing but the discretion and good sense of the gentlemen who held these appointments that prevented them actually committing the excesses referred to in that article, which was, of course, pointed with vigorous dashes in order to produce more effect:—

"The possible error of life-appointments is, to a great extent, contained in the fact that you can't tell what sort of a judge a barrister will make until he gets well set in his position. He may turn out an angel of legal light, or an emissary of the Evil One who presides over the whole profession."

Mark how closely, though in humble lines, the thoughts of that layman and press writer marched in accordance with the thoughts of the hon. and learned gentleman who sat at the head of the Opposition:—

"He may start badly and turn out well afterwards, or he may be a bad performer from the jump. But whatever he is, he is there, like your wife, for better or for worse, and you can't get the Parliamentary *decree nisi* to divorce him from the bench unless you catch him red-handed in the act of corruption. If appointments were for five or ten years the necessary independence would be secured, a guarantee of good conduct would be obtained for the public, and the country might then, within reasonable time, be relieved of the sorrowful results of the appointment of men who had not judicial ability or humanity enough to enable them to act as referees at a dog-fight."

That article contained the germ of a great deal of truth. That was evident from the fact that that House thought it necessary, in the interests of the country, to discuss the advisability of removing the seat of the Northern Supreme Court from one township to another. That was a question which should be discussed and settled solely by the House in the interests of the country, without any reference to the pecuniary position of the high official concerned. That gentleman was appointed at a certain salary, and invested with a certain duty in a certain area of the colony, extending from the extreme southern boundary to its northern border, and although, for the purposes so ably explained by the Minister for Mines and Works last night, Bowen was fixed upon as the locality of his residence, there was no contract made by the Government that Bowen should continue to be the place of his residence, yet they saw a sort of vested claim initiated involving a considerable

extent of salary to that gentleman, simply because that House decided to make the sphere of his duties a few miles north of where he was at present located. All those arguments combine to show that at the bottom of all the evils affecting the judicature lay that inevitable evil of life tenure. It was indefensible under any circumstances, because the position of a judge was a position of such a dignified nature, and, as a rule, so well remunerated, and attended with such great powers as to be the object of envy to every member of the profession. They might say there was a scarcity of barristers of ability, but every one of them looked forward to the position some day, unless he happened to be one of those fortunate gentlemen whose peculiar ability in politics, and whose large income rendered a seat upon the bench a matter of indifference. Therefore, if they wished to curb, as it appeared to be the desire of the hon. member in that Bill to curb, the exercise of those great powers, let them not deal with the cuticle of the offence, but let them go to the root of those evils and remove their cause. Why should a judge, no matter what his dignity or his talents might be, be removed from all censure? It was not wholesome; it was not a good thing for any man to be placed in a position so much above his fellow creatures as to be irremovable. He thought that the hon. gentleman, having shown that he was animated by a bold spirit of reform and not afraid of danger, should cast aside all those time-worn precedents and go to the root of the matter, and then go down in the history of the gentlemen who had occupied office in this colony as one who took the bull by the horns and turned him into a quiet, domesticated, and useful sort of beast.

Mr. DRAKE said he hoped the hon. gentleman would not drop those clauses. He understood it was now suggested that they should be withdrawn for the present, with a view of introducing them as a Government measure. If the hon. gentleman did withdraw them with that view he hoped he would see whether he could not see his way to accept some of the suggestions made by hon. members to deal with the subject more effectually. On the second reading debate he had himself referred to the provisions which made it an offence to insult a bailiff or other officer of the Supreme Court either going to or returning from the court, as too stringent. It appeared to him that the provision would apply to any officer of the court travelling from his place of residence to the court by steamer or other conveyance. It was hardly right that such a punishment might be inflicted as was provided by the clause upon a man who happened to tread on the toes of a bailiff or even of a policeman. That matter should be dealt with. As the leader of the Opposition had pointed out, the 15th section only dealt with one particular branch of the offence known as contempt of court. The 17th section, he understood, dealt with another one, and the only other branches left would be the offence of contempt of court by commenting upon proceedings that were *sub judice*, and the offence of running away with an heiress who was a ward of the court, without leave. No doubt the hon. gentleman did not think it worth while to deal with that branch of the offence, as Australian heiresses might as a rule be trusted to look after themselves, and no difficulty was likely to arise in that matter. If it were necessary at all, it might be introduced in a Bill for the protection of young females. He hoped the hon. gentleman would persevere. To a great extent he agreed with the remarks of the hon. member for Burke, Mr. Hodgkinson. He (Mr. Drake) did not think the measure was going quite far enough for the country. They were told that it was not necessary to deal with that matter, because the judges, though they had those enormous powers, did not exercise them. No doubt the reason why they did not exercise them in a great many cases was fear of public opinion. It did not seem exactly right that such extensive powers should be put into the hands of any individual with the tacit understanding that they would not be used. There was no doubt there were very few cases in which the power of punishing for contempt of court had been abused in this colony. If there had been many instances the Wilson case would not have given such a sudden shock and surprise to the community. But if instead of regarding the cases in which punishment had been inflicted they considered those in which punishment had been threatened they would be found to be very numerous; and it did not insure respect for the administration of justice when judges went out of their way to even threaten to impose certain ridiculous penalties upon persons. It would certainly be desirable that the hon. gentleman should in the Government Bill introduce some clause which would strictly limit that power, so that no judge would have the opportunity at any time to even tell people that he possessed the power to imprison for forty years for some vague offence which he was pleased to consider was contempt of court.

Mr. TOZER said he would remind hon. members that that subject had received considerable discussion in the New South Wales legislature recently, and both sides of the Assembly there expressed their opinions on it. A good deal of knowledge might be gained from the opinions of others. The leader of the House, Sir Henry Parkes, discussed the question very fully, and he (Mr. Tozer) noticed that that hon. gentleman took the same view as he did a few minutes ago—namely, that they should not alter the system, but deal with the individual. When those things which had been complained of took place, then the Executive should step in and remove the judge.

The HON. C. POWERS said before the clause was put he would like to refer to some of the remarks which had been made in connection with it. Of course those remarks extended to clauses 15, 16, and 17. He admitted that the first one, clause 15, really dealt with the question of the conduct of persons with regard to judges, jurors, the registrar or other officers during their attendance in court, or in going to or from the court, and he did not see any reason at the present time why that clause should not be passed or negatived, as an expression of the opinion of the Committee as to whether that matter was to be dealt with at all. The clause simply provided that where a person wilfully insulted a judge, juror, or officer of the court, or otherwise misbehaved in court, he might be fined £20, or in default be imprisoned for any term not exceeding seven days. The question to be decided now was whether that was a reasonable limit of punishment to fix, or whether they should fix any limit to the punishment for contempt of court. Clause 17 provided against disobedience of the orders of the court. They might very well deal with those two questions. Clause 16, as the leader of the Opposition had clearly shown, would be rather a dangerous one to pass without further consideration, because it did not deal, and in fact was not intended to deal, with wards of court. The question, which was really agitating the public mind, and on which legislation was called for, was whether they should stop the arbitrary powers of judges in regard to punishment for contempt of court, and prevent them tyrannising over the public as they did. It was thought by many that the judges should not be allowed to deal hastily with a man, and imprison him for one, two,

or three years, or fine him £1,000, in a case where he was prosecutor, judge, and jury. It was with very great satisfaction that he heard the leader of the Opposition say that he thought it was a question whether a case of comment on a judge in the public Press might not also be dealt with by a jury. The grossest case that had occurred in the colony was in connection with comments on a judge in the public Press. Therefore, if hon. members on both sides agreed that that matter could and should be dealt with, they would have got a long way towards arriving at some conclusion as to the proper way of dealing with the question. The discussion on that matter was very satisfactory, because it proved that some steps should be taken to legislate with regard to it, and the only question now was whether the steps proposed by that measure were the proper steps to take. The debate which had taken place on clause 15 showed that hon. members believed that it was right to limit the power of the judges as to the punishments that might be inflicted for the offences therein described. He was of opinion that a fine of £20 or seven days' imprisonment was quite sufficient to prevent other persons committing the same offence.

Mr. HODGKINSON: Why should officers of the court be put on the same footing with judges? They sometimes provoke insult by improper behaviour.

The HON. C. POWERS said they should protect a juror or the judge.

Mr. HODGKINSON: I mean bailiffs—petty officers.

The HON. C. POWERS said they were included because they were specified in the provision contained in the District Courts Act, which had worked well for the last twenty-two years. If the Committee thought that only the judge, jurors, and the registrar—the registrar should be protected, especially while the court was sitting—should be protected in the way proposed, he would have no objection to omit the words "bailiff or other officer."

Mr. HODGKINSON: How is a man to know a bailiff if he meets him in the street?

The HON. C. POWERS said possibly hon. members did not know that if a person swore at a bailiff for serving a summons that was contempt of court, and that to speak disparagingly of the court when served with a summons was also contempt of court. The subject was a large one; but the fact of its being large was no reason why they should not commence to deal with it. He thought they should commence by limiting the power of the judges as proposed in that clause. He did not see any difficulty in dealing with that clause now, and if clauses 15 and 17 were passed he did not intend to press clause 16.

Mr. HODGKINSON said it seemed that in some cases the sacred halo of those petty officers was preserved, and in others, where their powers were very much more important and might be justly maintained, they were ruthlessly abolished. Now, to revert, if it were permitted, to clause 7. That appeared to be a most dangerous clause. They were giving the defendant in a libel suit power to object to proceeding in the Supreme Court. What chance would a plaintiff have in a libel suit in many country districts where there might be great public excitement?

The Hon. C. POWERS: That clause has been negatived.

Mr. TOZER said supposing they passed the clause did the hon. gentleman purpose to induce the Government to incorporate it in their Bill, or did he purpose to pass a Bill containing only one clause? Did the hon. gentleman propose to meet the objections he had raised by placing upon the statutes a Bill with only one clause in it, or what was his object in reference to the remainder of the Bill?

The HON. C. POWERS said the difficulty about the discussion was that there was another Bill before them. He did not see why the two Bills should not be proceeded with. The difficulty was that the question of contempt of court was such a large one to try and deal with at once and have it settled. If it could be settled, he saw no reason why the Bill should not be allowed to drop and the clauses be included in the Government measure, if the Government were willing. He wished it to be settled in some way.

Mr. HODGKINSON said he would like to know how the hon. gentleman construed the 17th clause. To anyone but a professional man it appeared to re-convey powers to the judges which were sought to be taken away by the 15th and 16th clauses. That clause said:—

> "Nothing herein contained shall be taken to prejudice or suspend the right of any judge or court to make an order for the arrest or imprisonment without trial by jury of any person guilty of contempt of court by disobedience or neglect to obey any oral or written rule or order properly made by any judge or court in any action, suit, cause, or proceeding pending in any such court."

When a judge made an oral order, or gave a command, it was a rule of the court for the time being. They knew perfectly well the ingenuity with which legal gentlemen could construe those things, and they must remember that they were trying to invade the sanctity of what a judge would consider his natural rights, and the first object of the clause would be to restrict the exercise of those rights. The ingenuity of the judge would be directed to regaining those rights, by construing in the most liberal manner the powers given in the 17th clause. If a judge gave him the oral command to hold his tongue, and he refused, he would come under the operation of the 17th clause, and the judge would exercise upon him the very powers that were proposed to be taken away by the 16th clause.

The HON. P. PERKINS said he had not intended to take any part in the discussion, but what had just been said reminded him of what an eminent doctor from Melbourne had told him the other evening. That gentleman said: "I notice that you had something to say about the judges of Queensland." "Yes," he replied, "not about the judges; but about one particular judge." "Well," he said, "I was in a painful position one day in a court here," and he described what had happened. He said he had had to give evidence, and had waited for a couple of days. Judge Higginbotham presided over the court, and there was a man, who had just been examined, sitting down with his hands in his pockets and one foot up on the bench. After he had been asked a few questions, he happened to put one of his hands in his pocket, and the judge turned upon him and told him to take his hand out. That was Chief Justice Higginbotham, who had climbed over the backs of the people. He (Hon. P. Perkins) said, "Why did not you say that you would not take your hands out of your pockets? What right had he to tell you what to do with your hands; and call his attention to the man who had just been examined, and add that if he wished to commit you for contempt he could do it if he dared; but if he did he would find himself in an awkward position." The judges all became tyrants. Immediately they left the ranks of the people they became tyrants, no matter what practice they had. Some of them, of course, had had no practice.

He would not object to be prosecuted by some of them, if he had been guilty of a crime, and would not expect to be convicted. As soon as a man became a judge, he acted as if he did not belong to the ordinary run of the human race at all, and it was quite time they were gagged and shown that they were not the masters of the people, but the servants of the people. How did some of them get on to the bench? Some had got there through being members of Parliament, and others traded upon the people, and climbed up over their backs; but afterwards they became the greatest tyrants. It was quite time that the people took alarm. Of course, a judge had a great deal to do in many directions, especially if he had a man like his hon. friend, the leader of the Opposition, putting his complexion upon a case. That hon. gentleman had had him (the Hon. P. Perkins) in the witness box, and had often tried to extort statements from him that had no bearing whatever upon the case. He was glad the whole subject had been taken up, and was very glad when he read the remarks made by the Chief Secretary last night. But a few weeks ago that hon. gentleman was ready to stand up, and say to him, "What right have you to attack a judge?"

The PREMIER: That was in regard to the private character of a judge.

The HON. P. PERKINS said the hon. gentleman objected to his speaking about a judge at all. He knew perfectly well that the hon. gentleman was as ready to go for the judge as he himself was—if not that session, he was the previous session. But he did not want to go beyond last night; and he complimented the hon. gentleman on the manner in which he spoke about the judges. It was time the question was taken up by the Committee, and that hon. members should no longer be the tools of the judges. They got their offices by begging, cringing, crawling, and skulking. He was not referring to any particular judge. Some of them had not, and he admired their ability. He had now done with the judge to whom he made reference three or four weeks ago. He complimented the Chief Secretary on the manner in which he approached the subject last night. It was worthy of him.

Mr. LITTLE said that some time ago Judge Harding sentenced a man, who had committed a robbery at the Prince Consort Hotel, Fortitude Valley. He (Mr. Little) was residing there at the time, and he must say the judge's remarks on Mr. Copeland, the landlord, were unfair and unjust. Judges had no right to attack a man unfairly and unjustly, and that was an unfair attack. He dared say every hon. member had read what the judge said on that occasion; he read it with regret. The hon. member for Toombul was to have brought the matter before the House on a motion for adjournment, but he did not do so. He could inform the Committee that Mr. Copeland was one of the most respectable men, and the Prince Consort Hotel was one of the most respectable hotels in Australia. The judge had no right to attack a man he had never seen, and he thought his (Mr. Little's) word was as good as Judge Harding's.

The HON. C. POWERS said there was no doubt a good deal in the point raised by the hon. member for Burke; but if the hon. member looked at the clause he would see that it dealt with wilfully insulting a judge or misbehaving in court. It was intended to give authority to the judges to deal with those matters, but to limit their powers. Clause 17 did not deal with that class of offences; it referred solely to orders for imprisonment for disobedience to the rules and orders of the court. Such power must be left with the judges in cases of that kind. Supposing a witness was called to give evidence, and the judge made an oral order to answer a question, the judge must have power to enforce his order. That was not the power he sought to limit. A man, if he could be only fined £20 for refusing to answer a question, might find it pay him to pay the fine or even to take seven days' imprisonment. Clause 17 did not do away with the value of clause 15. It only gave the necessary power which judges must have for the purpose of insisting upon witnesses and others giving answers to questions and otherwise obeying the rules and orders of the court.

Mr. O'SULLIVAN said he was thoroughly dissatisfied to hear the hon. member say that it was an insult to a judge because a man refused to answer a question. The hon. member stated that a judge must have power to enforce answers to questions. Was he aware that there were some people in the world who would go to the gallows or the gridiron before they would answer questions. Supposing a Roman Catholic priest heard something in confession, and he was called upon by a judge to tell what it was; did the hon. member think for a single moment that, in order to evade the punishment of the judge, he would answer the question? No such thing; he would go to the gallows before answering it. The thing was not properly defined. Neither was he satisfied with the way in which the leader of the Opposition described the four ways in which a judge might be insulted. The first was that it would be an insult to the judge if a man entered the court drunk. Was there anything simpler than to give that man in charge of a policeman, and have him turned out? And the other three were exactly the same. The hon. gentleman also referred to some fool of a fellow going into a court-house, and somebody thought he had a pistol in his pocket. Probably the man had some old pistol-barrel in his pocket, and those present got into such a fluster that they thought he was going to kill the whole lot of them, while the judge threatened to give him forty years' imprisonment. If the head bailiff of the court had handed the man over to a constable, the whole thing would have been settled. Why did not the hon. gentleman refer to the unfortunate man who was driving his cart along William street, and the noise so insulted the judge that a policeman was sent out to put him in gaol? Or about a jackass of a judge who saw a letter in a newspaper, and had the man who wrote it run in? There was not a member of the Committee who wished to deal in a harsh or unjust way with the judges; all they wanted to do was to check the abuse of the power which they very properly had. What the judges apparently wanted was expressed by him in a single line the other day. When the members for Ipswich came down the other day and told the House that the rain was coming through the roof of the court at Ipswich on to the head of the judge, he (Mr. O'Sullivan) said "the judge ought to have committed the rain for contempt of court." That brought the whole thing into ridicule. If the judges would act like men of common sense, that was all he cared for. He went a great way with Henry George, who said that in all his walks of life—in every occupation he had been in—he had never found a man much more than an inch or two taller than himself. He (Mr. O'Sullivan) did not care twopence about the height of the assumptions of a judge, or of anyone else. He did not consider him above an inch and a-half or two inches taller than himself. So long as a judge was civil, friendly, and manly, and met him aboveboard like another man, he was ready to meet him; but if he put on airs or assumption of superiority, he did not care the dirt of his shoe

for him. He looked up to a gentleman, if he knew him to be one, and paid the greatest respect to him; but if he assumed any airs over him (Mr. O'Sullivan), then he at once came down to his level. That was the way in which he regarded the proposal to curtail the power of the judges. He did not wish to lead anyone to think that he wished in any way to give a vote which would reduce the authority or the position of the judges. His only idea was to tear off those excrescences which did not at all become them, and to teach them a little bit of common sense.

The PREMIER said he thought it would be admitted by almost every member of the Committee that some limitation should be put upon the powers of the judges with regard to committal for contempt of court. They knew of a case where a judge in this colony had threatened to commit a man to prison for forty years, or some such outrageous term of imprisonment. Clause 15 proposed to limit in a reasonable way the powers of the judges. If a judge thought a man had been guilty of contempt of court he had the power under that clause to imprison him for a week, or to fine him to the extent of £20. If the judge thought that that punishment was not sufficient, he had the power to commit the prisoner for trial before a jury of his countrymen. He confessed that if he had his way—speaking now as an individual—he would limit the powers of judges to a greater degree.

Mr. O'SULLIVAN: I am going to propose we do that.

The PREMIER said he would not allow the judges to have power to imprison a man for a longer period than twenty-four hours, and he would limit the fine probably to £5. He thoroughly agreed with the proposal that when a man was committed for contempt of court of a serious nature he should be tried by jury. He did not believe in taking the power of trial by jury from the hands of the people of any country and putting it into the hands of the judges, and that was practically what the law with regard to contempt of court did at the present time. It appeared to him that their power to commit for contempt of court was not limited in any way, unless the Executive interfered—that at present a judge might commit a man for contempt of court for all time.

Mr. TOZER: Clause 17 proposes to continue that power.

The PREMIER said he was dealing with clause 15. He did not propose to assist any measure which would allow imprisonment for contempt of court to be simply at the option of the judges of the Supreme Court, or of any man. In that clause there were very ample—if not too ample—powers proposed to be given to the judges. At any rate he was not prepared to go beyond that, so far as he was personally concerned, in any measure which the Government fathered. He admitted that there were cases—though they were rare—where a judge should be allowed to exercise such a power as was granted in that clause, but he thought that they should not continue their present power, and allow them to act in accordance with their own sweet will, and to give such punishments as they pleased to inflict. That power was a relic of the dark ages, and should be altered as soon as possible, and, as that clause was a move in that direction, he should certainly support it.

The HON. SIR S. W. GRIFFITH said he was sorry the hon. gentleman had not been present when he had addressed himself at some length to the subject. It was rather disappointing after the matter had been seriously discussed for some time to find an hon. gentleman get up and start afresh without any knowledge of what had been said on the subject, and to make use of arguments which had been minutely dealt with during his absence. Had the hon. gentleman been present all the afternoon he would have seen that the proposal made by the Bill could not safely be adopted. He did not propose to go over all the ground again.

The PREMIER: Clause 15 is the one I was discussing.

The HON. SIR S. W. GRIFFITH said he had pointed out that clause 15 dealt with only one of several phases of a very large question.

The PREMIER: I am aware of that.

The HON. SIR S. W. GRIFFITH said the clause did not deal with the other parts of the question at all. The Bill deprived the judges of a power which was absolutely necessary to secure the due administration of justice. It would be a good thing if the Government could get the judges out of their minds for the moment and consider the abstract question of the administration of justice. They were all concerned in the administration of justice in the colony. They were not to consider that a few members of the Government were annoyed with the judges in dealing with that question. The hon. gentlemen opposite would not consider the facts. They were irritated at the judges for some reason, but was that any reason why the Committee should devote so many hours to dealing with the judges? He could not see that any useful end would be gained by doing it. He had heard of a case at Bowen some time previously, where the judge had given an apparently excessive sentence, considering the circumstances. He had sentenced a man to twelve months' imprisonment for contempt; but the Government had done their duty and let him out again. That was not the only instance in which a judge here had given an excessive sentence; but the Executive could always exercise the prerogative of mercy and let them out. The Premier had referred to trial by jury. Now, what was the object of trial by jury? Surely it was to ascertain the facts. Supposing a man prevented the carrying on of the business of the court did they want a jury to say so, when the fact was obvious? Seeing it was plain that he was guilty of a gross offence. Would anyone say that that man ought not to be punished by six or twelve months' imprisonment? He did not believe that more than ten cases of contempt of court had occurred in the colony since its foundation, and in only one of those could it be said that the powers of the court had been abused. Then, what were they legislating for? The case in which the powers of the court were abused, in his opinion, was that in which something had been published in a newspaper outside the court. That was treated as a contempt of court; but, as he had said before, he had no sympathy with the exercise of the power of committal in such cases. If anything occurred in a court of justice, of course it was a different matter altogether. Things which happened inside a court, and which interfered with the course of justice, were not dealt with by the Bill at all, except to limit the power of the court to commit for contempt. If the Bill passed in its present form, it might lead to most scandalous articles being printed in the newspapers, and those articles might be handed to the jurymen as they came to the court in the morning. A man might intimidate witnesses, or he might do any number of things to impede the course of justice, and nothing could be done except to try him by jury afterwards. In the meantime the injustice would have been done; and it would be no satisfaction to a man, who might be deprived of everything worth

living for, to be told that the person who brought about the injustice might be convicted by a jury. If hon. members could only bring themselves to believe that the public were concerned in the matter it would be a good thing. It was not a question of clipping the wings of the judges; it was a question that more concerned the administration of justice than limiting the powers of the judges. The judges were as a red rag before the eyes of some hon. members, and the next proposal would probably be that the judges should not pass sentence—that it should be done by the Executive or by Parliament. Hon. members had run away from the real subject, and for no reason whatever. Mr. Justice Windeyer, of New South Wales, did a foolish thing the other day. Was that any reason why they should get into a panic? Had any judge in Queensland ever done such a thing? Suppose a judge once said he would imprison a man forty years for contempt, was that a reason for altering the law in a panic?

The PREMIER: Where is the panic?

The HON. SIR S. W. GRIFFITH said that hon. members talked as if some terrible injustice existed which required the immediate intervention of Parliament. As he had already pointed out, the subject was a very difficult and complicated one; it was a question that had not yet been reduced to a concrete form anywhere; and could not be dealt with at a moment's notice. The proposal made with regard to contempt of court was very much like putting a stick through a wheel to lock it because something was going wrong. Because the administration of justice, being intrusted to human beings, was not perfect—because the wheels of the coach did not run smoothly, and a mistake was made sometimes—the remedy proposed was to lock the wheels.

Mr. O'SULLIVAN: The hon. member thinks he is talking to children.

The HON. SIR S. W. GRIFFITH said that some hon. members had been talking very much like children. They proposed to disregard all the teachings of the past, and act like children who thought they knew everything. He admitted that there were serious anomalies in the law which ought to be corrected; but the remedy was not to lock the wheel. Those matters required more serious and thoughtful consideration than had been given to them, or could be given to them that afternoon; and the hon. gentleman in charge of the Bill, though actuated by good intentions, had not devoted enough time to the matter. He should make himself familiar with the law on the subject in all its bearings, and then he would see the defects which ought to be remedied. But the Committee were really asked to put a stick though the wheels of the coach, without knowing the real nature of the existing defects, or the remedies to propose.

The MINISTER FOR MINES AND WORKS (Hon. J. M. Macrossan) said he was surprised at the hon. gentleman talking about legislating in a panic, because he knew very well it was no such thing. He asked the hon. gentleman himself years ago to legislate on the subject; so that it was not a matter of legislating in a panic. The hon. member for Burrum, in his capacity as a private member, some months ago crystallised public opinion on the question of contempt of court as far as he could; and whatever friction might have taken place between the judges and the Executive lately, it had nothing to do with the legislation introduced by the hon. member for Burrum; so that there was no panic in the question. He agreed with the leader of the Opposition that it was a complicated and difficult question, but he thought it was full time that some limit was put on the power of the judges.

The HON. SIR S. W. GRIFFITH: I agree with you there.

The MINISTER FOR MINES AND WORKS said he would not say what limit should be put on their power; he left that for the Committee to decide. He, at any rate, disclaimed any legislation in a panic, because he had held the opinion for the last ten years that the power of the judges with regard to contempt of court should be limited.

The HON. P. PERKINS said he thought the Bill should be withdrawn. There was no doubt that credit was due to the hon. member who had introduced the measure; and he trusted that the hon. member would continue on the track on which he had started. But he should like to know who had briefed the leader of the Opposition. The hon. member must have been briefed by a judge—he would not ask the amount of the fee; but he certainly seemed to have had instructions that were very carefully concocted. One of the objections he (Hon. P. Perkins) had to the measure was that it did not go far enough. In addition to protecting people from the judges, it ought to protect them from slanderers who got into court—lawyers who turned round and blackguarded witnesses if they did not choose to tell lies to suit them. The judges should be made to know that they were not the masters, but that they were expected to administer justice impartially and not be reading lectures. They got good salaries, and if they were not satisfied they ought to get out of the way and make room for others. He knew many people who would take the office, and administer justice quite as efficiently as it was administered now. This was what was going through the Victorian Parliament at the present time:—

"Any person charged with contempt of court committed outside of the view of such court, shall only be tried for such contempt before the Full Court, consisting of at least three judges of the Supreme Court, and shall only be summoned before such court by a summons issued by a judge on a *primâ facie* case being shown on affidavit, and such judge shall not sit as a member of the Full Court.

"Any person connected by any court not being a court presided over by a judge of the Supreme Court for contempt of such first mentioned court, shall be entitled to appeal against such conviction to a judge of the Supreme Court in chambers. Provided that notice of appeal in writing be given within seven days of such conviction setting out the grounds of his appeal by the person so convicted or his attorney."

They were a little in advance of Queensland. This colony had taken many ideas from Victoria; and when his friend, Mr. Service, found it necessary to introduce a measure like that—protecting people from the judges—they might well legislate in the same direction. Those clauses should be embodied in the hon. member's Bill. There was also another Bill before the Victorian Parliament, for protecting witnesses from the attacks of lawyers, which he could not lay his hands on at present. That Bill dealt with cases in which lawyers turned round upon witnesses because they would not give the case the complexion that the lawyer wished. He had heard the opinion expressed that some of those lawyers should be shot for the way in which they abused women and others when they got them into the witness-box. It was no use at all tinkering with the measure before them, and he should advise the hon. gentleman to introduce a Bill protecting witnesses from unprincipled lawyers. He agreed with the leader of the Opposition, that the Bill was being rushed through too hastily. There was no necessity for it. The hon. gentleman in charge of the Bill, no doubt,

wished to distinguish himself, but as he had done that without the aid of that Bill, he should advise him to withdraw it.

Mr. ADAMS said the hon. gentleman who had just sat down had proved quite conclusively the necessity for an alteration in the law. He had proved from his quotations from the Bill passing through the Victorian Legislature that something was necessary even there. After what had transpired they must all acknowledge there was a necessity for curbing some of the judges. He did not say they were all alike. There were many good men among them who would not lose their tempers, and in their heat bring a man up for contempt of court, and commit him to gaol for as long a term as they thought fit. They had a specimen of that at Bowen last year, where a man for writing a letter was committed to prison for twelve months for contempt of court, but the publisher of the letter was let off scot-free. Therefore, he hailed the Bill with pleasure. It was not only in the colony of Victoria, but also in other places, that a necessity had been seen for altering the law. Even in England it was laid down by the highest authorities that the judges were amenable to Parliament, and not Parliament to the judges. Therefore, he thought it very necessary that the clause should be passed. He would read to the Committee an extract taken from the *North Queensland Sentinel*, which bore on the subject before them :—

"At the present time, when the very ill-defined offence known as contempt of court forms the topic of so much discussion owing to the action of Justice Cooper, it will be instructive to refer to what took place in the Imperial Parliament on the 12th November last. Sir Henry James, the eminent jurist, directed the notice of the Secretary of State to the action taken by the Chief Justice of the Bahamas in July last. On the 27th of that month a man named Thomas Taylor was tried by the Chief Justice for burglary, and found guilty. The judge then sentenced Taylor to seven years' imprisonment, upon which the convict, who was a powerful man, managed by a sudden effort to escape from the dock, and having by some means possessed himself of a stout stick, he made a violent assault on the judge."

He thought when a man assaulted a judge in such a way, it was certainly a very bad case of contempt of court.

"He was somewhat impeded in delivering his first blow by a screen, but managed to let the Chief Justice have one before he was disarmed and secured. After an interval of four days Taylor was again brought up before the judge, and for the contempt of court constituted by the assault was sentenced to penal servitude for life and ordered to receive thirty lashes. The case was debated in the House of Commons, and Baron Henry de Worms said the Secretary of State had given instructions that Taylor was to be released after having served his sentence for burglary, and that the judge had been admonished that any such mal-administration of justice in future might subject him to very serious consequences. This case certainly establishes a precedent upon which a colonial Premier may safely act. The judge in the case mentioned received a severe censure and a warning not to do the like again, and the entire sentence for contempt, so far as it could be, was remitted. Surely the day cannot be far off when throughout the Empire the relics of superstition and barbarism which yet linger around the high judicial function will be completely wiped away."

To verify that statement, he had taken the trouble to look up the debate in the English *Hansard*, vol. 330, p. 89, as a great many people thought that newspaper extracts were not reliable. He would read a portion of it.

Mr. ANNEAR: Are you quoting from Shakespeare?

Mr. ADAMS said he was not. He would leave that to the hon. member for Maryborough, who had been on a tour, and it was just possible he had picked up a copy of Shakespeare, and very likely he would quote it before the close of the session.

"THE BAHAMA ISLANDS—THE SUPERIOR COURT OF JUSTICE—THOMAS TAYLOR.

"Mr. Pickersgill (Bethnal Green, S.W.) asked the Under Secretary of State for the Colonies, whether, on or about the 31st July last, the Chief Justice of Her Majesty's Superior Court of Justice in the Bahama Islands adjudged that Thomas Taylor, for contempt of court, should receive thirty lashes and suffer a term of penal servitude, the said contempt consisting in an assault committed on the justice whilst sitting on the bench; whether the sentence of whipping was carried out; and what course Her Majesty's Government propose to take in the matter?

"Sir Henry James (Bury, Lancashire), also asked, whether any information has been received as to a sentence of penal servitude for life and flogging passed by the Chief Justice of the Bahamas on a man named Thomas Taylor; whether it is correct that Taylor, having been sentenced to seven years' penal servitude, committed an assault upon the Chief Justice, who thereupon increased the sentence to one of penal servitude for life, and ordered the man to be flogged; if this be so, was the sentence inflicted after any trial for the assault; was such increased sentence imposed in respect of the original offence, or as a punishment for the assault; and is there any record of the infliction of such sentence being passed?

"The Under Secretary of State (Baron Henry de Worms) (Liverpool, East Toxteth): On the 27th July, Thomas Taylor, having been sentenced by the Chief Justice of the Bahamas to seven years' penal servitude for burglary, committed an assault upon the Chief Justice in court, and on the 31st of July the Chief Justice sentenced him to penal servitude for life, and ordered him to receive thirty lashes. The increased sentence appears to have been inflicted as a punishment for the assault as a contempt of court without any trial. The Secretary of State has not been informed whether the sentence of whipping was carried out. A report of the sentence, which is stated to be a correct copy of the record, is contained in *The Nassau Guardian* newspaper of August 1st. The Secretary of State has given instructions that Taylor is to be released after serving the sentence inflicted on him for the burglary, and that the Chief Justice has been informed that should any such grave miscarriage of justice occur again, it may have very serious consequences for him."

From that it would be seen that the judges were under the control of Parliament. He did not say that that man did not deserve punishment, but it was evident he did not deserve the punishment that had been inflicted upon him. What ought to have been done was to have brought the man before a jury, put him on his trial, and then he would no doubt have received the punishment he richly deserved. There were many kinds of contempt of court, and there were smaller offences than that which might be dealt with by the Bill. He thought the present law was sufficient to deal with them, as it appeared that the judges had a perfect right, when a man did anything very wrong, to commit him for trial. They were there to protect the weak. It was not those who had money that required protection so much as those who had not. It was their duty to prevent injustice being heaped upon an unfortunate poor man. In the case of the man Wilson, at Bowen, it must be acknowledged—and the judge himself had acknowledged it—that the sentence passed upon him was too severe. No doubt if the judge had taken time to consider what he was doing he would not have inflicted that punishment. It was, for all that, a very hard thing that when punishment was inflicted upon a man in that way he should have to come down to the Government and set his case before them before he could get relief. The decision of the judges should in some way be final, and there should be no reason for a man to come to the Government to get relief. That sort of thing did not encourage much confidence in the sentences passed. In the case he had quoted it turned out that the unfortunate man was a black man; but in the English *Hansard* it was stated that the punishment was not meted out to him simply because he was a black man; but such punishment should not have been meted out to him at all. It was acknowledged that the man was whipped,

and a question was asked in the House of Commons as to whether it was legal for the judge to inflict that punishment. The Attorney-General answered the question at once, and stated distinctly that it was not lawful for the judge to mete out such punishment to any individual for contempt of court. What was the remedy? He might after he had served his term, if he had the means, bring an action against the judge for damages. But when they considered that a poor man had not the means to carry on such an action it was the duty of Parliament to protect the weak against the strong by proper legislation. He was, therefore, very pleased that that 15th clause had been introduced in the Bill. No doubt the judges should be protected as well as the public, and he thought they would have quite sufficient protection in the power to fine a man £20 or imprison him for seven days, and also in severe cases to commit an offender for trial, which could be done under the existing law.

Mr. BARLOW said he was in favour of clause 15, and would vote for it if it went to a division. But there was another matter to which he wished to direct the attention of the hon. member for Burrum, and that was that, under section 15 of the Mining Companies Act of 1886, power was given to a warden when winding-up a company to commit a man to prison for non-compliance with an order of his court, or non-payment of calls. He (Mr. Barlow) understood that a person could purge himself by insolvency, but at the same time it was an exceedingly arbitrary power to give a warden, and he would be glad to hear an exposition of the subject from the hon. member for Burrum.

The HON. C. POWERS said persons could be committed to gaol and left there for the debts mentioned, and also for costs in connection with those matters. He understood from an hon. member that there were two persons in gaol now for contempt of the warden's court in not paying calls. There was no doubt that was a question which ought to be dealt with. They had arrived at a stage now when imprisonment for debt ought not to be allowed. But it was allowed. It was permitted in the case of the non-payment of certain preferential claims, of which wages was one of the chief. There was some sort of justification for it in that particular case; but it certainly should not be allowed in connection with the non-payment of calls in a mining company, or of lawyers' costs. With reference to the clause under consideration, some hon. members present had told him that they intended to discuss the principle of it to a much greater extent than they had so far done. He did not regret having introduced the Bill. The discussion on it has shown that every member, or nearly every member, was of opinion that some action should be taken in connection with the privilege which judges now possessed with regard to punishing persons for contempt of court. Some members went further than others, but nearly all agreed that some steps should be taken to limit the power of the judges in that respect. He admitted that it was not right for him in his present position to take up time on private members' day, because they had very little time at their disposal, and there was a considerable amount of private business on the paper which had been there for a long time, and which hon. members were anxious to get on with. If the clause was passed it would scarcely afford any stronger expression of opinion than had already been given in the course of the debate, that some provision of the kind was desired, nor would it aid the Government, should they take the matter up in the measure they had introduced, as the whole question would have to be discussed over again. He therefore intended to move that the Chairman leave the chair and report progress. But before doing so he must say that the discussion that afternoon had convinced him even more strongly than he was convinced before, if that were possible, that they ought to deal with that matter, and deal with it carefully and properly. The leader of the Opposition could not have dealt with the question more fairly and fully than he had done, and his remarks pointed to the conclusion that they ought to deal with it. There was no doubt from the speeches which had been made that it was generally agreed that legislation on the subject was necessary. If the question could possibly be dealt with this session he would use his efforts to have it done, even though they did not go to the full extent, if they could do it in such a way as not to delay the Bill introduced by the Government. There were, as the leader of the Opposition had stated, so many kinds of contempt, and it was so necessary for the proper administration of justice that the power of the judges should be retained in a great many cases, that it was a big question. The question was whether at the present time they could bring forward a suitable measure that would not delay hon. members too long? If the matter was not dealt with this session, he thought the Committee might rest assured that it would be brought forward early next session. He was justified in saying that by the remarks which had fallen from the leader of the Government. He would be glad to receive any suggestions from hon. members for dealing with the matter in the Government Bill, this session, if possible. He believed the clause would pass if inserted as it stood, although he admitted that it would not deal with the whole question of contempt of court as desired by the Committee. Therefore, so as to allow private members to proceed with their business, he moved that the Chairman leave the chair and report progress.

Mr. BARLOW said before the motion was put he wished to know whether, in the case of the iniquitous imprisonment of the penniless men referred to, they could get out by insolvency *in forma pauperis*.

The HON. C. POWERS said he believed one of the three men had been let out already.

Mr. MACFARLANE said he wished to express his opinion in reference to the 15th clause, which had his entire sympathy. He believed that some legislation of the kind was necessary for the protection of witnesses and prisoners who came before Supreme Court judges. A great deal had been said in reference to the power of the judges, and particular emphasis had been laid upon the case of the man, Wilson, who had been imprisoned for twelve months by the Northern Supreme Court judge for contempt. Now, if that was a hard case, and he believed it was, what was that of a man whose case he had brought before the House already, who was sentenced to fifteen years' or sixteen years' imprisonment for what was really contempt of court? Rackley was sentenced to twenty years' imprisonment for arson, when the usual sentences for that crime up to then, had been about two years or three years. Yet, that man had been sentenced to twenty years' imprisonment, and was really putting in fifteen years or sixteen years of that for contempt of court. That was an action on the part of the judge that he could not agree with. The outside public were far better judges of justice than the Supreme Court judges themselves. Judges had no feeling for the sentences they passed upon prisoners; but the outside public felt the sense of wrong very acutely. The judges instead of being their masters, were, in reality, their servants, and Parliament ought to pass laws

beyond which they could not go. If clause 15 had been the law at the time Rackley was sentenced he would have been a free man by this time, and he hoped the matter would not be lost sight of by the Hon. Mr. Powers, but would be brought up some other time. There were other cases of imprisonment for contempt of court which ought to be dealt with also, as the leader of the Opposition had suggested. He trusted the leader of the Opposition and the new legal member of the Ministry would not lose sight of the matter, but would see that the public were no longer defrauded of justice.

Mr. HUNTER said, in the absence of the hon. member for Charters Towers, he would inform the Government that three miners were arrested in that town within the last few weeks under a writ of attachment in connection with the liquidation of a company. He did not know where the money had gone, but supposed it was all spent among the lawyers. Two years ago two men in Townsville were also imprisoned under similar circumstances, and it was in the power of any warden in the colony to imprison a man. Those were not isolated cases, but cases that had come under their immediate notice. Such instances were continually increasing, and he hoped the Government would see their way to deal with the matter.

Mr. HAMILTON said he knew a number of similar cases. When a man went into a company he did not know what the liabilities might be. He had obtained, by allotment, 333 shares in a company at Croydon. He did not want the shares, but happened to be run into them, and he found that, although the liabilities of the company were only £474, and there were 24,000 shares, a call of 2s. 6d. had been made, and that was only the first call made since the company was put into liquidation. In fact, £2.400 had been raised in order to pay a debt of £474, which was the total liability at the time of the winding-up of the company. That was a fine picking for the lawyers; but the shareholders did not make much out of it. He believed that according to the present law the shareholders could be imprisoned if they did not pay up.

The HON. SIR S. W. GRIFFITH said he was glad the hon. gentleman in charge of the Bill had come to the conclusion to let it stand over for the present. As he had said upon a previous occasion, he had invited the hon. gentleman to introduce a Bill dealing with the subject. But if the Government proposed to take the matter seriously in hand, he would recommend them to deal with the whole subject. If they were going to make any effort to deal with it, it should be dealt with in a comprehensive law, which would classify the different kinds of contempt of court. They must go very carefully to work, and be in a position to know what was the existing law, so that they would be able to formulate the different classes, and come to a right conclusion as to what the remedy should be. That, of course, was a matter of great difficulty; but he would recommend them to go to work in that way. He had no doubt that great assistance might be obtained from a study of the manner in which Continental courts dealt with the subject. He had no information upon that point himself; but would endeavour to obtain some during the recess. It was a matter in which Queensland might probably lead the way. He was only anxious to impress upon the Government not to deal with the subject in a fragmentary way, as there was always a danger in so doing of the new law overlapping or coming into conflict with the old law. Upon the whole, he thought the hon. gentleman had come to a right conclusion.

Question put and passed.

1889—5 o

The House resumed; the CHAIRMAN reported progress, and the Committee obtained leave to sit again on Wednesday next.

ENDOWMENT TO AGRICULTURAL AND HORTICULTURAL SOCIETIES.

CONSIDERATION IN COMMITTEE.

On the motion of Mr. GROOM, the Speaker left the chair and the House went into Committee of the Whole to consider this Order of the Day.

Mr. GROOM, in moving—

That an Address be presented to the Governor, praying that His Excellency will be pleased to cause provision to be made on the Supplementary Estimates for 1888-9 for increasing the endowment of agricultural and horticultural societies to one pound for every pound subscribed, provided that no society receives more than two hundred pounds in any one year, from the public revenue—

said that as he believed most hon. members had made up their minds on the question, it was hardly necessary for him to detain the Committee by any lengthened observations upon it. He noticed in the Estimates that those societies were now brought under the control of the Department of Agriculture, and he would suggest that the time had come when the resolutions for the guidance of the Government in those matters, which were passed on the 27th July, 1864—twenty-five years ago—should be placed on a more comprehensive basis, and these societies brought more into touch with the Government and with the House, than they had been in the past. In Victoria, according to the monthly bulletin issued by the Agricultural Department for June, 1888, the amount voted for agricultural societies in 1887-8 was £20,000. That was placed in charge of the Council of Agriculture, as it was called, and the sums were distributed in accordance with regulations gazetted on the 23rd December, 1887. The amount the Council of Agriculture was authorised to distribute out of that sum was £19,500; the other £500 being a special grant for the National Society. He would not read those regulations, but would merely state the basis on which the distribution was made, which was of a far more liberal character than was proposed in the resolution before the Committee. He was surprised when he saw that the Ballarat Agricultural Society received £984, and he wondered how it came to get such a large amount until, on looking at regulation No. 2, he found that each society received two-thirds the amount of prizes paid away up to £25 in value. Some of the prizes offered were £100 in value. In some districts prizes were offered for the best cultivated farms, the first prize being £200, the second £100, and the third £50; but the Council of Agriculture only gave the award of two-thirds to prizes which were up to and under £25 in value. There was also a regulation, which was a very good one indeed, and one which might be introduced with advantage into Queensland, that no society within twenty miles of any other society should be entitled to participate in the vote unless the sum awarded and paid away in prizes amounted in the total to £100 at least. That was done to prevent the undue multiplication of societies. Hon. members were well aware of cases in Queensland where half-a-dozen dissatisfied men, who thought they ought to have received prizes, immediately started a rival society, perhaps within three or four miles of the other society, and the result was that within twenty miles there were four rival societies, each competing against the other. That rule was a very good one. In Victoria, the societies had a number of schedules to fill up and send to the Agricultural Department, furnishing to the Minister a full account of the expenditure and receipts; and in the report of the Council of Agriculture the position, financial

and otherwise, of all those societies was supplied, so that when the vote came before Parliament, members had the report before them, and were able to judge as to what position the societies were really in. In Queensland the House was only able to judge of the position of the societies from the reports they read in the newspapers, and from what they might have seen for themselves. He had been connected with those societies for the last twenty-five years, and he was certain they had been the means of doing an immense amount of good in every direction. As a means of education, of opening up the resources of the country, of showing to people at a distance what the country was capable of producing, they had been of immense service to the colony. It had been stated that the finances of the colony would not bear the additional sum asked for. The amount voted last year, at the rate of 10s. to the £1, came to £2,200; so that if the motion were carried there would be only an addition of £2,200; and he thought that in a colony like theirs, with a revenue amounting to £3,500,000, they certainly ought to be able to afford £4,400 as an endowment to agricultural and horticultural societies, particularly when they took into consideration what other colonies were doing. Victoria owed her position as one of the first agricultural colonies in the group to the large support the Government had given in the endowment of agriculture—apart, altogether, from climatic conditions. During the whole of his parliamentary career he did not remember a single session of Parliament where so few demands had been made upon the Treasury as had been made that session. He had seen demands made upon the Supplementary Estimates amounting to £40,000 in one year, but that was done, as was admitted afterwards, for the purpose of embarrassing the Treasury. But of late years members had seen that it was not a wise thing to interfere with the financial operations of the Government by proposing large supplementary votes. In asking the Committee to consent to the motion, he did so because he was sure those societies were doing a very large amount of good. For the last three or four years they had been content with 10s. in the £1. It was suggested the other night that they could well afford, in view of the present good season, to put their hands in their pockets and give larger sums; but it must be borne in mind that a state of unusual depression existed at the present time. He did not want to exaggerate, but he must state that among the agriculturists, as among the pastoralists, large losses had been sustained. For the last two years, in a large number of agricultural districts, the farmers had really had nothing to sell, and they had nothing to sell now. They were looking forward with some degree of hope to the near approach of better times, but in the meantime it would be impossible for them to give anything like the large donations which the Chief Secretary suggested when he (Mr. Groom) introduced the motion. He knew they had contributed as far as they possibly could. Hon. members must understand that if the motion was carried the farmers would have to put their hands into their pockets in order to enable them to get the increased endowment. They did not expect to be treated with the liberality of the Victorian Government; indeed, it was quite probable, from one point of view, that the liberality of the Victorian Government was getting almost too large. Of course it would not do to destroy the self-reliance of the farmers. He would leave the matter as it was, because he was sure that if he spoke the whole evening it would not affect the opinions of hon. members. He desired that those societies should receive the assistance they were entitled to, and it would assist them very materially if the Committee would grant the increase asked for. Those societies were of undoubted importance, as they brought together large concourses of people. Then the railways benefited from them, and so did the Customs. He was sure that hon. members must admit that the National Association's Show in Brisbane was the means of bringing about an annual expenditure of £25,000 or £30,000 in that city, and the railway receipts were, without doubt, largely increased; so that from whatever point of view they regarded those shows—whether from an educational point of view, or from their encouragement of trade, and their producing increased railway receipts—they must be admitted to be very useful. He would therefore conclude by moving the motion.

The MINISTER FOR LANDS (Hon. M. H. Black) said he was sure that every hon. member having the welfare and progress of the colony at heart, must appreciate the efforts the hon. member for Toowoomba had made for some time past in furthering the agricultural industry of the colony. The importance of those shows could not be over-estimated. There was no doubt they were of the greatest value to the colony. They were the means of educating the people, and they were the means of bringing people together to compare what could be done by the different districts of the colony; and so long as those efforts were properly controlled and directed, he did not think the Committee would do wrong in voting the sums of money necessary to give effect to those praiseworthy intentions. There was no doubt that, for some years past, the votes to agricultural, horticultural, pastoral, and mining societies—they went under various denominations—had been liberal, and in some cases, somewhat lavish; and undoubtedly, in many instances, they were beyond the controlling power of Parliament. Money had been voted year after year for those societies, and for various reserves and parks; and it was much to be regretted that Parliament had not hitherto taken an active supervision over the matter, and seen that the money voted was properly expended upon the purposes for which Parliament had so liberally voted it. Since the recent establishment of the Agricultural Department, that vote, which had formerly been in the Chief Secretary's Department, had been transferred to the Department of Agriculture, and that department would also have the control of the various parks and reserves of the colony. In putting those two branches of agriculture under more efficient control, it was done with the intention of exercising an active supervision. Those societies which were deserving, and which could prove that they had put the money granted to them to a good use, would receive every encouragement, while those societies and reserves which had not expended the money voted in the way it had been intended it should be spent, would doubtless have their votes curtailed in future. It would take some time, however, before effect could be given to that intention. The hon. member who had introduced the motion had referred to the way in which those votes were dealt with in Victoria. The sum of £20,000 was annually voted there, and he understood that the endowment was at the rate of two-thirds of the amount of prizes which were given by the societies.

Mr. GROOM: Which are paid away.

The MINISTER FOR LANDS said in Victoria they had a proper safeguard, which was that no two societies should be within twenty miles of each other, and if some such system could be started in this colony, it would be a good thing. Now that they were going to put an annual vote on the Estimates, apportioning it to the population of the country, if some definite

scheme were started, like the one in Victoria, there would be very little objection to it. He was only too anxious to see that every encouragement should be given to those agricultural and horticultural societies; and he only asked the Committee to give the Government a little time to organise the Agricultural Department, so that they could come down next year with such a scheme as would meet with the approval of the Committee, and would give that encouragement to the Department of Agriculture which he, and everyone else, desired it to receive. It was not merely the amount of £2,200 which was voted for the purpose of assisting agriculture in the colony, that they had to consider, because in addition to that, the sum of £5,545 was placed on the Estimates for parks and reserves, making a total of £7,745. The hon. member for Toowoomba had stated that Victoria granted the sum of £20,000 to agricultural and horticultural societies in that colony, but he did not know whether that included grants to parks and reserves.

Mr. GROOM: There is £10,000 voted for parks, in addition to the £20,000.

The MINISTER FOR LANDS said that made the total grant in Victoria £30,000, as against £7,745 in Queensland; but hon. members must bear in mind that the population of Queensland was only about 25 per cent. of that of Victoria.

Mr. FOXTON: More than that.

The MINISTER FOR LANDS said it was not much more than that. At all events, hon. members would see that the expenditure in this colony, in the shape of grants to agricultural and horticultural societies and parks and reserves, was really in proportion to that of Victoria, considering the respective populations of the two colonies. All that was wanted was to organise such a scheme as they had in Victoria, and which he had no doubt had proved successful there. Whether the vote was to be £2,000 or £4,000 was not a serious matter; but the Committee should not increase the vote until they had such a scheme laid down as that suggested by the hon. member for Toowoomba. He did not mean for one moment to say that the finances of the colony were so flourishing that they should unnecessarily or rashly increase the grant, but he would willingly see it increased, so long as he was satisfied that the money would be satisfactorily expended. What would be the result if the vote were increased at present to every little society—and they had a great number of little societies, all of them of more or less importance in the small centres of population in which they were situated? Those little shows destroyed one really good show by having two indifferent ones. Take the district the hon. member for Toowoomba himself represented. Would it not be very much better to have one fine show, instead of having two shows annually at Toowoomba? Then, again, let them take the case of Marburg and Rosewood. They had two shows there which no doubt in their own way were nice little shows, but that was about all that could be said of them. It would be much better to have one show which would be a credit to the German population of that district.

Mr. SMYTH: Let them have year about.

The MINISTER FOR LANDS said it was a matter of indifference to him how they were held; but it was a pity to see the praiseworthy efforts of the people destroyed by little local jealousies. He thought that regulation in Victoria providing that no two societies should receive endowment if within twenty miles of each other, was a very good one, and one that ought to be introduced here. He was entirely in sympathy with the object which the hon. member for Toowoomba was endeavouring to attain; at the same time he hoped the Committee would not force on the Government the proposed expenditure, before they had time to devise a proper scheme for giving effect to the resolution.

Mr. GROOM said he did not think the Minister for Lands ought to have mixed up the question of parks and reserves with that of agricultural and horticultural societies. They were entirely distinct in Victoria. Instead of voting money in Victoria for what in Queensland were called grass paddocks—parks and reserves—and that were in many instances let as such, it was arranged that—

"A sum not exceeding 10s. shall be paid to the treasurer of the managing body of any public park or garden having a claim on the vote for every £1 expended by such body on fencing, preparation of land and planting, forming of roads and paths, and such other works as the Minister may approve, in such park or garden between 1st January and 31st December in each year, out of funds locally contributed."

And it was stated further in the regulations that—

"The term 'locally contributed' shall mean and include all moneys voted by the managing body of any public park or garden, from its own funds, for the fencing and planting of such park or garden; also all moneys voluntarily contributed for the same purpose, between the 1st January and 31st December in each year; but it shall not mean nor include any sums advanced by any bank, nor any subsidy paid by Government."

Of course authority was occasionally given by the legislature to the trustees to sell the frontages to the main streets of several of the parks, under certain conditions, and devote the proceeds to laying out public gardens; and that was the reason why the city of Melbourne contained such beautiful public gardens, particularly that in which the Exhibition building was situated. He hoped the Committee would not agree to the proposition of the Minister for Lands. He had not brought forward the Victorian regulations for the purpose of defeating his own motion, but to induce the Minister for Lands to follow the course adopted in Victoria, and bring those societies more in touch with Parliament in future than they had been in the past. At present there was nothing but the resolutions introduced by him in 1864 to form a basis on which the funds voted could be distributed; and those resolutions were as follows:—

"1. That any such society shall have been in existence at least twelve months previous to application being made on its behalf, and shall consist of not less than fifty members, whose subscriptions for the current year shall have been paid at the time of such application.

"2. That the subscriptions actually paid for the current year for which such application shall be made, shall amount to no less than £50.

"3. That the aid granted to any such society shall not exceed an amount equivalent to that raised by private contribution within the current year, nor shall it in any case exceed £100 to any society in one year."

Those resolutions were passed twenty-five years ago, and it was time that better regulations should be formulated. The endowment was stopped at a time when those societies had incurred liabilities from which they could not withdraw; and instead of those liabilities having decreased, he was sorry to say they had increased in some instances, so that this was a matter of urgency. While he appreciated the exertions of the Minister for Lands, who was prepared to do all he could to help those societies, he hoped the Committee would be prepared to concede the amount for which he asked. If the Committee assented to the resolution, and the department prepared regulations, had them gazetted and carried them out, his object would be attained, and the interests of the societies would be promoted.

The PREMIER said he did not know that the hon. gentleman had strengthened his argument very much by going back twenty-five years. He could quite understand that at that time those societies required what might be termed spoon-feeding by the State, but now they ought to be able to stand on their own legs. A large number of them existed in districts where there were many wealthy men. The society in the district represented by the hon. member for Toowoomba was, next to the National Association, the premier society of the kind in the colony; and there were no wealthier squatters or freeholders in Queensland than on the Darling Downs.

Mr. GROOM: But they do not contribute to the farmers' society.

The PREMIER said the hon. gentleman was dealing with both agricultural and horticultural societies. The society to which he had referred ought to look after itself, and require no subsidy from the State. He thought the hon. gentleman would agree with that. There might be smaller associations which, to a certain extent, depended on the money they obtained from the State. But was it fair that the taxpayers should be called upon to pay for the support of those societies? After all, *cui bono?* Who benefited by them? Was there any good work done to the State as a State, by the existence of those small societies——

Mr. ISAMBERT: Yes.

The PREMIER: Which would justify the Committee in taxing the people of the colony for their support? He said, No. He knew the hon. member for Rosewood said "Yes," but he differed from him altogether. He said that the multiplication of those societies did no good. If they had, as pointed out by the Minister for Lands, in the different divisions of the colony, a leading society, there would be there a concentration of all that was good in those districts, and the State might be fairly called upon, possibly, to contribute. But where, in every small centre of population, an agricultural society was started, he said it was waste of money for the State to subsidise it, and that it did no good to the State. He knew that a large number of members had either presented or got a petition in their pockets asking for a grant of £1 for every £1 subscribed. Of course that was a skilfully devised plan. It might be said, to use the words of the leader of the Opposition, that the fiery cross had gone round. That was done in the case of schools of art. At any rate there was a unity of opinion among those places where schools of art existed that the State should restore its contribution to the original sum granted years ago. To that the Government consented, he was afraid in a weak moment, because it was given, as it were, as blood to those people. They tasted blood and they now wanted more. He had not the least doubt that many hon. gentlemen were pledged to support that increase, but he thought it was a very unfair thing to the taxpayers of the colony. The Government would be defeated probably on division, but they were bound to protect the Treasury, and would do so as far as they could. No case had been made out in favour of the proposal as it stood. The time might come, and he hoped it was not far distant, when the colony would be able to give the same contribution as it did a year or two ago to those societies, but he did not think that time had come yet; and in the meantime the Government would most certainly oppose the proposition of the hon. member. He did not for one moment think or believe that those small shows were educational in any way whatever. Now, the travelling dairy, the pet baby of his friend the Minister for Lands, was certainly a very educational establishment; but those small horticultural and agricultural societies did no permanent or even local good. The idea, to his mind, was absurd. He admitted that a large show, such as was to be seen at Toowoomba and at some other centres, say, at Warwick—he did not say at Dalby, although he might if Mr. Jessop was in the chair — did some good; but to say that those small gatherings in and about East and West Moreton—he did not say it invidiously — taught the farmers any more than they knew before was too absurd, and he thought it was very hard on the taxpayers of the colony if the impost already put upon them was to be doubled. Although he believed there was every probability of the Government being defeated in that matter, still he entered his protest—a protest that would be upheld by some hon. members—against that increased expenditure in a direction which he did not think would tend to any public good.

Mr. ISAMBERT said for the credit of the Government he was really glad that the sentiments uttered by the Premier were not shared by his colleagues, as least so far as the Minister for Lands was concerned. The arguments used by the hon. gentleman were simply the arguments of a hard and fast commercial man. Because he could see no immediate profit, he could not see anything in the proposition. Now the Government saw the wisdom the other day to increase the vote for schools of art, and the House approved of it. It was considered, therefore, that the vote for agricultural societies would receive the same fair treatment. Of the two, the vote for agricultural and horticultural societies did more good than the vote for schools of art. He said the arguments used by the hon. gentleman were commercial, and reminded him of England, whose chief industry and policy had been a commercial policy, and agriculture had been neglected. They allowed agriculture to take care of itself. They allowed the landholders to clear out the rural population and convert its fertile areas, that ought to nourish the population, into hunting fields. Of late years a different spirit had come over the British Government, for they read in the English telegrams recently that a little light was coming into the thick heads of the British Government. They had seen their mistake in neglecting agriculture, and now had appointed a Minister of Agriculture and included him in the Cabinet. He thought that a very ominous sign, as a sign that they had neglected their duties too long. Now, the arguments of the Premier were as ungenerous as those he used when the proposition to establish a university was before the House. Were they living simply by making dollars? Was a man really a money-making animal, as the leader of the Opposition had written in his celebrated article on the distribution of wealth? It seemed so. Formerly he did not think so much of those agricultural societies as he did now. He looked at them somewhat from the same rational point of view that the Premier looked at them—that if there were fewer and bigger societies it would be better, because there was very little difference between one year's show and another. But year by year some of the shows were improving—notably the show of the National Association in this city. And why? It pointed a very good lesson that man was more than a money-grinding animal. Men were social beings. He believed the social requirements of man were as great an attraction of those shows as their industrial advances were. If they had to depend upon merely the absolutely useful part of their shows they would all be failures. Year after year the people attended them simply to get

together. The desire to do that was the desire to fulfil the requirements of human nature, and that desire was the basis of the fairs in the old country. People did not go to fairs merely for the purpose of buying, but more to enjoy themselves. If there were two societies, even in the same district, so long as the people supported them by their subscriptions, that was a proof of their necessity, and the Government should pay deference to the requirements of the people. As to the argument that the present rate was fixed twenty-five years ago, he might say that every civilised country worthy of the name paid continually increasing attention to agriculture. The Government had themselves shown that agriculture deserved more attention, inasmuch as they had—and all credit to them for it—extended the Department of Agriculture established by their predecessors, and had very wisely established two travelling dairies, and appointed a professor of agriculture with the intention of making that an important department. It was strange that they should, after doing all that, now state that there was plenty of time to wait until the present proposal had been better considered. He said that now was the time to deal with the matter, as all those societies had been established upon the expectation of getting reasonable assistance from the Government of £1 for £1. That had been done when the country was in a depressed state with a large deficiency in the Treasury, and it was false economy to pare the expenditure upon a department that should be further encouraged. When the agricultural industry suffered the whole country was depressed. He thought the idea of putting off the question for another year was suicidal.

The MINISTER FOR LANDS said there was no doubt that the motion was one which had the sympathy of that Committee; but he believed the Committee in according that sympathy really desired to be assured that the money devoted to the purposes of the motion should be properly expended for the purposes for which hon. members were willing to grant it. He would therefore propose, with the consent of the hon. member for Toowoomba, to add to the motion a certain proviso which, he believed, was entirely in accord with the wishes of the Committee. The endowment would be considered to be in accordance with the hon. member's proposal — namely, double the present rate of endowment, but subject to such regulations as might be framed for the proper expenditure of that endowment. Hon. gentlemen must understand what that meant. The agricultural and horticultural societies had recently been placed under the Agricultural Department, and it was intended that the department should supervise the expenditure of the money granted by that House. If the department found that societies were wasting the money, and were holding shows, for instance, that were really unnecessary, the regulations would be so framed that the double endowment would be withheld. If, on the contrary, it was found that deserving societies were, perhaps, languishing for want of funds, and even further assistance was necessary, the department might ask the House to give an increased endowment, and the House would be justified, and would have some grounds to go upon in granting it. He merely wished to provide that the endowment asked for by the hon. member for Toowoomba should be really expended for the purposes for which it was granted. He begged to move that the following words be added to the motion :—

"And subject to such regulations as may be framed for the proper expenditure of the endowment."

The understanding then would be that the endowment in future would be £1 for £1, and in the event of its being ascertained that the money was not being properly expended the department should have the right to withhold the endowment, or a portion of it.

Mr. BARLOW said he was one of the first to give the Government credit for a desire to economise and defend the Treasury, and if the retirement of the late Vice-President of the Executive Council was due to the causes assigned for it, and he believed it was, he considered it praiseworthy on the part of the Government that that gentleman was allowed to retire when he declined to follow a course of economy in connection with the Central railway station. But he thought the amendment proposed by the Minister for Lands would have the effect of crushing all the smaller societies. He was perfectly satisfied as to the desire of the Government to economise; indeed they could do nothing else, and he only wished they had allowed and would allow hon. members to assist them in economising a great deal more in dealing with the Estimates than they appeared desirous of doing. If the proposed amendment was passed, it would be quite possible under the regulations to shut up all the smaller shows.

The MINISTER FOR LANDS : The useless ones.

Mr. BARLOW said he protested against the system of centralising that was going on in such matters. He told that Committee and the country, so far as they were disposed to listen to his voice, that some day or other they would bitterly repent such a system. In Victoria and New South Wales the system of centralisationhad been found to be a very great curse. Those large centres of population went on growing by what they fed upon, and by-and-by they got everything and nothing could be got outside of them. Everything was large or small by comparison. The Rosewood show was small when compared with the Ipswich show, and the Ipswich show was small when compared with the great centralised demonstration held in Brisbane. He could say from experience, as he constantly attended them, that the smaller shows in the country were centres of education. Anything that brought the people together in social intercourse, and broke the dull monotony of the life they lived in subduing the wilderness and making homes for themselves, should be assisted and encouraged. It was not, in his opinion, necessary that there should be a new product exhibited at these shows, a new vegetable, an improved fruit, or an improved animal, or anything of that sort. So far as he had read English history, in old times the nation was kept together by these festivals, and at these fairs people came together and learnt something of what was going on in the world outside of their own little circle. He should excessively deplore the shutting up of those small shows. If there was a show to be held at St. George, which was represented by the Premier, he would be very glad to hear that it was encouraged. He could say that the Rosewood show was an exceedingly good show, and he held that all those shows provided means for educating the people, taking them out of their lethargy, and relieving the monotony of their existence. He hoped that when the regulations were framed they would be framed in such a way as not to cramp the little shows, but rather encourage them. He would very much rather see the money taken from the big shows and given to the smaller ones, because by that means they would educate and encourage a greater number of people than they would by having one big show where visitors had neither the time nor the opportunity to see anything properly.

Mr. COWLEY said he did not think there was the slightest necessity for the speech just delivered by the hon. member for Ipswich, as the proposition and the amendment combined tended to the very object which the hon. member wished to attain. The resolution proposed that no grant should exceed £200. Therefore, the money would not go to large societies which the hon. member complained so much about; and the amendment of the Minister for Lands simply meant that the money would be given to societies that were well conducted, whether large or small. If a society was well conducted and proved it was deserving of a grant, it would get one. As far as the vote itself was concerned, he thought they should be exceedingly careful how they proceeded. They gave very liberally to the public institutions of the country—to schools of arts, hospitals, and other charitable institutions, and now they were going to give increased endowments to agricultural and horticultural societies. He thought the restriction proposed by the Minister for Lands should be favourably considered by the Committee. He was sure that no member had the slightest desire to encourage bogus shows or societies that had not a laudable object. To show that it was necessary to closely scrutinise any vote for agricultural societies, he would point out that it was proposed to vote £19,943 for the Agricultural Department this year. That was a large sum for the short time the department had been in existence. But if the department went on growing at the rate it had done for the last two years, and the money was well spent, he was sure hon. members would be well satisfied. They should be very careful indeed before they voted large sums to agricultural societies, because he found that where the Government did most the inhabitants did the least. It was well for them to encourage a spirit of independence in that matter, as well as in other things. He should support the amendment.

Mr. GRIMES said he thought they would all agree with the Minister for Lands in his desire that the money voted for endowments to agricultural societies should be put to the best use possible. They had no desire to see it wasted by being spent on two or three societies in one district, and he took it that there would be no objection to the amendment. He did not understand from it, as the hon. member for Ipswich appeared to do, that it was an attempt to do away with small shows in the country districts.

Mr. BARLOW: It can be worked in that way.

Mr. GRIMES said it could be worked in that way, but he did not think it was the desire of the Minister for Lands to make regulations in that direction. He believed the hon. gentleman would deal fairly with the amount placed in his hands for disposal in the manner proposed by the resolution, and that the societies in the country districts would have a fair share of the expenditure. It was not desirable to take up any further time with that discussion, as there was other private business to come on, and he would therefore content himself with that short expression of opinion.

Mr. BUCKLAND said he could not allow the amendment to be put without replying to the remarks of the hon. member for Rosewood, in which the hon. member stated that England was not an agricultural country. He was sure the hon. member could not have read lately the accounts of the Jubilee Show of the Royal Agricultural Society, held in the domain of Windsor Great Park. That society was started about fifty years ago, and when it commenced there were only about 200 entries, but now there were upwards of 8,000 or 10,000 entries every year. The show covered something like forty acres of ground, and the buildings had cost about £200,000 to erect, and yet the hon. member said that England was not an agricultural country. He (Mr. Buckland) was reading the other day that there were visitors to the show from all parts of the world, and buyers of the stock, as grown and exhibited in that country. He could tell the hon. member that the best stock throughout the world had been produced originally in some part of Great Britain—either horses, cattle, sheep, or pigs. He knew what the hon. member was referring to. The hon. member was thinking more particularly of the condition of the crofters in the north of Scotland. But to say that the southern part of England was not an agricultural country was altogether wrong. If the hon. member would read the account of the exhibition for this year, he would alter his opinions considerably. He (Mr. Buckland) was very glad the Minister for Lands had consented to allow an increased endowment to the agricultural societies of Queensland. The hon. member for Ipswich, Mr. Barlow, was afraid that the smaller societies might be killed by the larger ones. What was the present National Agricultural and Industral Association of Queensland? He (Mr. Buckland) recollected that it started as the East Moreton Farmers' Association, and it had very few exhibitors, and a very small capital. He was quite certain that the money proposed to be given to agricultural societies would be well spent, as it would encourage agriculture in the colony.

Question—That the words proposed to be added be so added—put and passed.

Resolution, as amended, put and passed.

Mr. GROOM moved that the Chairman leave the chair, and report to the House that the Committee had come to a resolution.

Question put and passed.

The House resumed.

On the motion of Mr. GROOM, it was ordered that the report should be received on Friday next.

CHURCH OF ENGLAND (DIOCESE OF BRISBANE) PROPERTY BILL.

COMMITTEE.

On the motion of Mr. GROOM, the Speaker left the chair, and the House resolved itself into Committee of the Whole to consider this Bill in detail.

Mr. GROOM, in moving that the preamble be postponed, said he might as well, perhaps, take advantage of the opportunity to explain to the Committee the reason for the introduction of the Bill. It was in consequence of a decision given by the Privy Council in the case of Gray *versus* the Bishop of Capetown, that the Church of England, in the Diocese of Brisbane, was formed into what he might call a voluntary association. At the first meeting of the Synod after the association had been formed, it was considered necessary, in order to make arrangements for the proper holding of church property, to prepare a model trust deed. At the time of separation the whole of the portion that was at present Queensland was in the diocese of Newcastle, and the property was in the name of the Bishop of Newcastle. It afterwards became necessary for the Bishop of Newcastle to transfer all right, title, and interest in all Church property to some recognised authority. The then Bishop of Brisbane, Dr. Tufnell, applied to the Governor in Council, under an Act known as the Religious, Educational, and Charitable Institutions Act of 1861, for letters patent establishing the corporation of the Synod of the Diocese of Brisbane.

Upon those letters patent being issued, the Synod held its usual annual meeting, and the late Justice Lutwyche, Sir James Cockle, and Mr. Bramston, then Attorney-General, agreed to prepare the model trust deed, and that deed was prepared and accepted by the Synod. But a singular omission was recently discovered in that deed, and he could not better explain the position than by reading the evidence of the Chancellor of the Diocese, Mr. Graham Lloyd Hart, which would be found in the first page of the evidence :—

"By the Chairman: Will you be kind enough to explain the principal object that the petitioners have in view in asking the Assembly to pass this Bill? It will be observed that the clauses of the Bill deal principally with what is termed the 'Model Trust Deed.' First of all, in the early days of the Synod, the constitution, a copy of which I will put in as evidence, was adopted dealing with the affairs of the Church: I am speaking, I may say, from hearsay a great deal, but the Rev. Mr. Matthews, who has been a member of the Synod from its inauguration, will speak more definitely. This is a copy of the constitution [*Document marked as Exhibit A*], and Mr. Matthews will verify it. The committee will observe that the 17th, 21st, and 22nd sections of the constitution deal with land belonging to the Church; and that the 22nd clause provides that—

"'Any trustee in whom any property, real or personal, shall be vested, either solely or jointly with other persons or person, for or on behalf of the Synod, shall hold the same with the powers and subject to the limitations, declarations, and provisions contained in the several clauses of a model trust deed, etc.'

The Committee will see that these provisions do not interfere in any way with lands held upon specific trusts or trusts declared by the donors, but simply with lands generally. The model trust deed was subsequently adopted; and I will put in an office copy of that also.'

He had a copy of that with him, and any hon. gentleman who wished to see it could do so—

"You will see that it deals in detail with the powers to be possessed by the trustee, and that power to mortgage is omitted."

That was the part he desired to call attention to—

"I may say that when I first became chancellor application was made to the Synod to mortgage certain lands, and the question then cropped up as to whether there was power. In my opinion there was not power. I subsequently conferred with counsel on the subject, and that opinion has been confirmed. The Bishop of Brisbane, while in London, had consulted the highest legal authority on the same subject, and he had upheld the opinion of the colonial counsel."

The highest legal authority in England was Lord Selborne, who had perused the model trust deed, and had given his opinion that there was no authority in it to mortgage land. But, unfortunately, before that was discovered, the corporation of the Synod of Brisbane had mortgaged several Church properties, and the object of the first part of the Bill was to legalise those mortgages, and enable the corporation of the Synod of Brisbane to mortgage in future. Another part of the Bill referred to the 2nd section of the Fortitude Valley Parsonage Land Sale Act of 1877. The 2nd section of that Act was as follows :—

"Immediately after the receipt of the proceeds of the sale of such land in any part thereof, the said trustees or their successors shall pay the reasonable expenses of and attending such sale, and shall deposit the remainder of the purchase money in the Queensland National Bank (Limited), Brisbane, and shall not withdraw the same or any part thereof, or apply the same or any part thereof, for any purpose other than the payment of work done, or material provided in or about the erecting of a parsonage, or some part of the land comprised in Government portions 197, 198, and 199, situated in the country and parish aforesaid."

That land was valued at £1,000 then, and that was considered no adequate sum to spend on the erection of a parsonage; but the land had not been sold and the Government valuator valued it at £3,500; and if it went to auction it would probably realise more. That sum was considered too large to spend upon the erection of a parsonage, and therefore it was proposed that after the parsonage had been erected, part of the proceeds should be devoted to building a school in connection with the church, and any small balance left should be transferred to the Diocesan Council to be used for any suitable purpose in connection with the parish of Fortitude Valley. Those were briefly the objects of the Bill, and he moved that the preamble be postponed.

The PREMIER asked if the hon. gentleman in charge of the Bill could tell them what had been done with other lands belonging to the church?

Mr. GROOM said the select committee appointed to inquire into the Bill did not, and were not directed, to extend their inquiries as to what had been done with the other lands. There were specific trusts which were not included in the Bill at all. The only lands which were dealt with in the Bill were those held by the corporation of the Synod of Brisbane, and not those held under specific trusts, the names of the trustees of which hon. members would find in the appendix prepared by the chancellor.

Mr. TOZER said the Premier would find there were no other lands in connection with the Fortitude Valley Church. If there were any they were vested in the Synod. That was one of the things he was specially particular about, to call for a list of church properties so that hon. members might see what were standing in the names of trustees for especial trusts; and the only one in Fortitude Valley stood in the names of Edwin Westaway, G. L. Hart, and H. Wyborn.

The PREMIER said he knew perfectly well that there were church lands in the Valley, in some instances with houses let on them. He should want to know a great deal more about the matter, speaking as a private member, before he let the Bill go through. There had been a good deal of dodgery going on with that Fortitude Valley Church and its surroundings, and he was not going to let the Bill go through without knowing a great deal more than was disclosed in the evidence. He should give it his stubborn opposition until he found out what apparently the hon. member in charge of it did not know. He had reason to believe that those lands had been cut up and let, and that the control of the church had been taken out of the hands of the parishioners. He himself was what might be called a buttress of that church; he supported it from the outside.

Mr. BUCKLAND said he believed the leases of some of the lands referred to had been sold by auction during the last three or four years. Possibly the hon. member in charge of the Bill could give some information on that point?

Mr. TOZER said the select committee took every precaution; they did not hear only one side. Everyone they consulted was satisfied; the governing body of the church, the trustees, the parishioners, the churchwardens, the previous parson and the present one; indeed, everybody they consulted who could have any say in matters affecting that church was thoroughly satisfied. All the select committee wanted to do was to carry out the directions of the legislature on a previous occasion in a manner suitable to the present circumstances of the community. What more could the hon. gentleman want than that? Could the hon. gentleman suggest that there was one person in the whole Church of England community, who was not agreeable to the proposal in the Bill? If he could, none of the select committee knew of it, nor did any of the persons representing the parishioners.

The PREMIER said he happened to reside in the parish, and he had contributed, in his small way, to the erection of the church. The hon. member for Wide Bay said he was not aware that a single parishioner objected to the proposal. Why was he (the Premier) not called?

Mr. TOZER: You had a representative, and we sent for him.

The PREMIER said he supposed that was Mr. Wyborn, who said he had represented the parishioners for twenty years. A man who had been the people's churchwarden for twenty years must have got into a certain groove. Some people in that locality did not altogether hold with the opinions expressed by Mr. Wyborn; and he himself protested against the Bill being passed. He took a deep interest in that particular portion of the town, and he most distinctly objected to the proposal contained in the Bill.

The HON. SIR S. W. GRIFFITH said the Bill dealt with two entirely distinct subjects; one, the general subject of Church property, the other, the Fortitude Valley lands. The hon. gentleman's objection seemed to be to the latter part. Of that he confessed he knew absolutely nothing. The other part of the Bill he could understand on reading it, and he saw no objection to it. There could be no objection to the passing of the Bill with the part referring to the Fortitude Valley lands omitted.

The PREMIER said he was quite willing to let the Bill pass on those terms.

Mr. GROOM said the Premier himself was a member of a select committee in 1877, which brought up a report recommending the sale of those lands. All that was asked now was that, in addition to the parsonage, the school should be built out of the proceeds. Did the hon. gentleman object to that?

The PREMIER said he did. There had been a vast alteration in the circumstances since 1877.

Mr. GROOM said the Bill was submitted clause by clause to the Synod, at which there were present representatives from Fortitude Valley, including the late and the present clergyman. Indeed the latter gentleman produced to the committee the following memorandum, dated the 8th August, 1889, addressed to Mr. G. L. Hart:—

"DEAR SIR,—At a meeting of parishioners, duly convened and held in the Trinity Church Schoolroom this evening, the following resolution was carried unanimously, viz.:—'That this meeting thoroughly approves of the draft amendment of the Fortitude Valley Parsonage Land Sales Act, as proposed by the chancellor of the diocese.'"

He did not think anything could be more satisfactory than that. He never had any intimation of any opposition to the proposal. The opposition of the hon. gentleman was the first that had been brought under his notice.

The PREMIER said he was not the only one who objected to the sale of the land, as he knew a considerable number of people interested in the Valley Church who also objected to it. He appealed to the hon. member for Fortitude Valley to say whether he did not know that what he was stating was correct.

Mr. McMASTER said that he did not belong to the Church of England; but he knew that Fortitude Valley suffered very much, from a business point of view, from the position of those Church lands. The hon. member for Ipswich might laugh, but it was quite true.

Mr. BARLOW: I laughed at the idea of the Almighty having got the land to the prejudice of trade.

Mr. McMASTER said there were some things with which the Almighty had very little to do, and he did not know that the Almighty was a land-grabber. One-third of Ann street almost was occupied by church properties. Commencing at the Union Hotel, and for some distance on each side of the street, the land was the property of a Church which would not sell that land. Then, further down were the lands of the Church of England, and of the Wesleyan Church. He had been connected with the Wesleyan Church for some years, but when they were building a new church he had refused to contribute largely, in a certain way, until they had done something with the street frontage to their property which was lying idle. He did not know what the Premier alluded to, but evidently he knew something more than the select committee. As the hon. member for Bulimba had stated, the lease of the frontage of the Church of England property had been sold by auction some time back, and as a matter of fact there were several shops upon it; but there was still a portion of it not yet built on. He would like to see all the main frontages utilised; but that Bill was asking permission to sell the property in Leichhardt street.

Mr. TOZER: They can sell that as it is; but they want to put up a school-house as well as a parsonage, and they want to apply the money to the building of a schoolhouse.

Mr. McMASTER said he had read the evidence taken before the select committee, and he had also read the Bill; and he noticed that the Bill contained some amendments which were not in the Bill which had been circulated amongst hon. members. In the original Bill he noticed that the bishop was to get any balance there might be, to spend wherever he chose; but that had been altered, and now the money was all to be spent in the parish of Fortitude Valley. That was quite right. If they did not wish to sell all the land they must sell a portion of it in order to build the schoolhouse, otherwise where was the money to come from? Was the school to be built on the same ground?

Mr. GROOM: Yes.

Mr. McMASTER said he had been given to understand that the school was to be erected near where the present church was. Not being a member of that Church he did not know very much about the question, but he knew that many people in Fortitude Valley would like to see the Church sell the frontage to Ann street, as their holding it was detrimental to that part of the city.

Mr. GROOM said he would like the Premier to tell him what he really wanted, because he did not want to take up the time of the Committee unnecessarily. If the hon. gentleman intended opposing the Bill he did not wish to waste time, as there was other private business to be gone on with. He had no wish to do more than to serve the Diocesan Synod in introducing the Bill, and the hon. gentleman's was the first intimation of any opposition to the measure. With regard to the other property the hon. gentleman had referred to, he might tell him that it had nothing to do with the Bill, as it formed a part of the Bishop's Endowment Fund out of which the salary of the Bishop was paid. If the Premier would tell him what he wished to have amended, he would try to meet his wishes. He presumed the hon. gentleman had no objection to the first part of the Bill. If the hon. gentleman would show him how to amend the 11th section as he desired it, he would be quite prepared to amend it. The hon. member for South Brisbane, who had been on the select committee, knew that they had drafted that clause to guard in every way

the original trust established in 1877, so that the money should not be taken away improperly. It was perfectly true, as the hon. member for Fortitude Valley had said, that the Bishop, under subsection 7 of the original clause, would have got the balance of the money. That read as follows:—

"If there shall thereafter be any surplus, the said trustees shall apply the same for such uses and purposes and in such manner as the Bishop in Council shall direct."

That had been struck out, and the money was not to go to the Bishop, but was all to be placed in the hands of those connected with the Fortitude Valley Church.

The PREMIER said he was confirmed in his opinion by the remarks of the hon. member for Bulimba as to the position of the Church lands of the Fortitude Valley trust. Those lands could only be leased as the law stood at present. Up to the present the lands had been leased and not sold outright, and he could not see why the same course should not be pursued now. Why should those lands be sold?

Mr. BARLOW: That is the principle of the Act of 1884.

The PREMIER said the hon. gentleman was now talking about the Land Act.

Mr. BARLOW: I say you are carrying out the principles of the Land Act of 1884.

The PREMIER said he did not object to the hon. gentleman interrupting him at all—they had always been friendly to each other. They were not dealing now with the Land Act of 1884, but with the way in which the Fortitude Valley Church lands were to be dealt with. The Church lands of the Fortitude Valley trust had been leased up to the present time, and he thought the hon. member for Toowoomba, who was in charge of the Bill, was aware of that. For his part he could not see why any change was necessary. He objected to the Bishop having anything to do with the proceeds of that property. He did not care who the Bishop was, but in dealing with that property they had nothing to do with the Bishop of the Church of England. Personally, he had the greatest respect and esteem for the present Bishop, but that Committee had nothing to do with the Bishop in this matter. He objected to the land being alienated from the church. He admitted that he was not as keen or strong a churchman as the hon. member for Toowoomba, but those who belonged to him went to church, and took a keen interest in it; and he most distinctly objected to the absolute alienation of any property belonging to a religious body, as proposed by the Bill. There was no doubt that the Fortitude Valley Church was able to beg, borrow—he did not say steal. That church was able to beg and borrow all that was required, because in both those two b's the Church of England stood second to no other Church in the colony. Therefore, he distinctly objected to giving power to alienate the property absolutely—which would eventually be much more valuable to the religious sect to which it belonged than it was at the present time—while there were other means of carrying out the object of the Bill.

Mr. BARLOW said that, in view of the explanation given by the Premier, the Bill would have his most cheerful opposition.

Mr. McMASTER said they already had the power to sell the property in Leichhardt street, and what they wanted now was power to appropriate the proceeds of that land to the purpose of building a parsonage and a school on the Fortitude Valley property close by the church; so that there was no desire to interfere with the land of which the Premier spoke. All he hoped was that they would not build fronting Ann street, because he thought it was not desirable to erect such buildings fronting main streets.

Mr. BUCKLAND said he recollected when the leases of the land fronting Ann street were sold, and he understood that when the present Bishop arrived he laid claim to the income derived from those leases.

Mr. McMASTER: He did not.

Mr. BUCKLAND said he was very glad to hear to the contrary.

The PREMIER said he hoped the hon. member would not persevere with the Bill. That hon. member, and the hon. member for South Brisbane, and the hon. member for Wide Bay, were members of the Synod; and they were, therefore, prejudiced parties.

Mr. TOZER: We represent different parts of the colony, and are no more prejudiced than you are.

The PREMIER said he thought he had more right to be heard in the matter than those hon. members. He had been something like sixteen years in the parish of Fortitude Valley, and he protested against the Bill.

Mr. LUYA: Your opposition should have come sooner.

The PREMIER said he had no opportunity of opposing the Bill sooner, because he had stated that he would put no opposition in the way of the second reading being passed before 6 o'clock, as the hon gentleman in charge of the Bill would admit. He opposed the Bill now, because he did not think it was in consonance with the views of the parishioners of Fortitude Valley.

The HON. SIR S. W. GRIFFITH said he would suggest that the Committee should proceed with the Bill to-night up to the part relating to the Fortitude Valley Church lands, and that the hon. member for Toowoomba should let that part stand over till next Friday.

Mr. GROOM said that if the Premier would accept that suggestion, he would proceed to-night only as far as the part relating to the Fortitude Valley Church.

The PREMIER said he was quite agreeable to that.

Mr. LUYA said he could supply the Premier with some information. The Government were justly indebted to the church now some £1,800. They induced the church to put the land under offer to them, under the express stipulation that a post office would be built there. After the land had been transferred, they built the post office somewhere else, and sold the land, refusing to transfer it back to the Synod, or give them the extra money it brought. The Synod sold it at a low price, on the condition that the building would go on. The Brunswick street property was part of the endowment of the Bishop's stipend, and there was no power to sell it. The land remained as waste land until money was borrowed to erect buildings on it. He was happy to say that the speculation turned out a successful one, and the Synod was receiving a very large amount of money besides paying all the interest on the borrowed money. The money could not be devoted to any other purpose but the Bishop's stipend. The Church lands in the Valley were altogether different. They were given for a special purpose—for the building of a parsonage, and if the land was sold to-morrow it would be invested in the Valley by the erection of a parsonage and schoolhouse. The remainder, if any, would be used for the purpose of erecting a church at New Farm, and he did not think it could be devoted to a better purpose. Any corporation might have too much land—

too much dead capital, and the best plan was to realise some of that capital, and put it to some good use. He really did not see where the opposition to the Bill came in. The original trust was not interfered with, but it was proposed to carry out the original trust. As for the Hon. the Premier being more unprejudiced than other members were, he did not see how that followed. If he had more right to criticise the measure than he (Mr. Luya) had, then he should have attended to his parochial duties, which he seemed to have neglected. A public meeting was called to consider the matter, and that was the time to oppose the Bill.

The PREMIER said the hon. gentleman said that a certain balance was to go in the erection of a church at New Farm. With regard to that church, he knew that he was very nearly "had" for the whole purchase money, as he guaranteed half of the interest on the purchase money for three years; but that had nothing to do with the Fortitude Valley Church at all. There was never any offer made to build a church at New Farm. What they got in the Valley they stuck to.

Question put and passed.

Clauses 1 to 9, inclusive, passed as printed.

The House resumed; the CHAIRMAN reported progress, and obtained leave to sit again on Friday next.

CASWELL ESTATE ENABLING BILL.

COMMITTEE.

On the motion of Mr. TOZER, the House went into committee to consider this Bill in detail.

The preamble was postponed.

Mr. TOZER said that before clause 1 was put to the Committee he desired to move the insertion of a new clause. He would be happy to give hon. members interested in the Bill any information with respect to it that they thought necessary. The report and evidence submitted by the select committee who had considered the Bill, spoke for themselves. The clause he proposed to move was intended to add another to the trustees originally named by the will. Consent had been given, and all the necessary precautions taken with respect to the appointment. He moved that the following new clause be inserted:—

The said Clive Elliot Caswell is hereby constituted and appointed a trustee of the said will of the said Henry Drew Caswell, deceased, and the said will shall be read and construed as if the name of the said Clive Elliot Caswell had been inserted throughout the said will jointly with the names of the said John Piper Mackenzie and Albert Norton as trustees and executors thereof. And the said John Piper Mackenzie, Albert Norton, and Clive Elliot Caswell are hereby constituted and appointed trustees of the said will for the purposes of this Act.

Question put and passed.

On the motion of Mr. TOZER, clause 1 was amended so as to read as follows:—

"It shall be lawful for the said John Piper Mackenzie, Albert Norton, and Clive Elliot Caswell, or other trustees for the time being appointed for the purposes of this Act, to pay off or to renew either in whole or in part any subsisting mortgage upon the trust estate or any part thereof, and from time to time to mortgage the whole or any part of the said trust estate in such amounts as the said John Piper Mackenzie, Albert Norton, Clive Elliot Caswell, or other the trustees for the time being appointed for the purposes of this Act shall think fit, but so that the total sum secured by any mortgage charge or encumbrance on that part of the trust estate which is held in partnership with one Patrick McKay shall not at any time exceed in the aggregate five thousand pounds, and on the remaining portion of the trust estate the sum of fourteen thousand pounds, and to renew either in whole or part any such mortgage charge or encumbrance given or executed in pursuance of this Act:

"Provided that if at the time of the exercise of any power created by this section there shall then be any son (or daughter) of the testator, and resident in Queensland, over the age of twenty-one years, his (or her) consent shall be necessary to such exercise of the said power, subject to the provisions hereafter contained."

Clause, as amended, put and passed.

Clauses 2 to 4, inclusive, passed as printed.

On clause 5, as follows:—

"1. It shall be lawful for the said John Piper Mackenzie, Albert Norton, and Clive Elliot Caswell, or other the trustees for the time being appointed for the purposes of this Act, to continue to carry on the said business of a grazier as carried on by the said testator at the time of his death, and also the business carried on by the testator in partnership with Patrick McKay at the time of the said testator's death, at New Cannindah and Bompa in the Burnett district in the said colony, until the youngest for the time being of the testator's said children attains the age of twenty-one years, and for so long thereafter as may be necessary for the purpose of winding-up the said business, and not otherwise.

"The said business of the testator shall be carried on under the name of 'The Estate of Henry Drew Caswell, deceased.'

"2. It shall be lawful for the said trustees to use and employ in the said business such part of the said testator's trust estate or the proceeds thereof as they or he may think fit, with liberty for that purpose to resort to any accumulations of income or profits which may have arisen under the direction to accumulate contained in the will of the testator, and with liberty also for the said trustees to employ any or either of the sons of the testator or any other person or persons in the management or otherwise of the said business, and to employ such assistants and servants therein, and to pay and allow such salaries and wages, and generally to conduct and carry on the said business in such manner as the said trustees shall in their discretion think fit.

"3. The trust estate of the testator shall be liable for all the debts and liabilities of the said business.

"4. The trustees shall not be personally responsible for any debt of the said business except in the cases hereinafter provided for.

"5. Any person who was a partner with the testator at the time of his death in any business may continue to carry on such business in partnership with the estate of the said testator, and such person shall be responsible for all the debts and liabilities of such partnership business, as general partners are now by law, and any such partnership business shall be carried on in the name of the said estate, with the addition of the name of such partner.

"6. The trustees may deduct and mutually allow to each other all disbursements and expenses incident to the execution of the powers conferred on them hereby, and shall be responsible each for his own acts and defaults only, and irresponsible for losses occurring without wilful neglect or default, and shall be indemnified with and out of the said trust property against all liabilities consequential on the execution hereof, and particularly as regards the carrying on of the said business pursuant to the powers hereinbefore conferred."

The HON. SIR S. W. GRIFFITH said there was an extraordinary provision in the clause, which he was sure could not have been intended. It provided that—

"The trustees shall not be personally responsible for any debt of the said business, except in the cases hereinafter provided for."

That was to say they might carry on business and enter into contracts with any number of persons and should not be responsible for the debts they incurred. He did not know of any law under which a man carrying on business was not liable for the debts he incurred. It might be desirable they should be indemnified as regarded somebody else, but certainly not with regard to the persons with whom they dealt. That must be a mistake in the Bill.

Mr. TOZER said it was intended that the trustees should not be personally responsible to the *cestui que* trust.

The HON. SIR S. W. GRIFFITH said that was a sort of no-liability institution. The trustees were to trade on the no-liability principle; they might order goods and be under no obligation to pay for them. If that was intended they certainly ought to carry a notice about with them, so that persons with whom they were dealing might know it. He moved that paragraph 4 be omitted.

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

Clause 6—"Appointment of new trustees"—passed with verbal amendments.

The remaining clauses of the Bill, the schedules, and preamble, were passed as printed.

On the motion of Mr. TOZER, 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 was made an Order of the Day for Tuesday next.

STAFFORD BROTHERS RAILWAY BILL.

COMMITTEE.

On this Order of the Day being read, the Speaker left the chair, and the House went into Committee of the Whole to further consider this Bill in detail.

Clause 4 passed with consequential amendments.

On clause 5, as follows:—

"Subject to the provisions of the laws in force for the time being relating to the construction, maintenance, and management of railways, Stafford Brothers shall, in respect of the said railway, have and may exercise the some powers and privileges as are under the said laws exercised by the Commissioners in regard to any of the undermentioned matters and things, that is to say—

(1) The preparation of plans, sections, and books of reference;

(2) The carrying out of works required for the use and benefit of owners and occupiers of lands adjoining the said railway;

(3) The conditions under which goods shall be carried on the said railway;

(4) The prescribing of regulations governing the use of the said railway and the mode of conducting the traffic thereon;

(5) The making and publishing of by-laws for enforcing the observance of such regulations; and

(6) The enforcement of the penalties prescribed by the Railway Acts or regulations in force for the time being."

The MINISTER FOR MINES AND WORKS moved that after the word "privileges" in the 4th line of the clause, the words "and shall be liable to the same duties and obligations" be inserted.

Amendment agreed to.

The MINISTER FOR MINES AND WORKS moved that after the word "by" in the 5th line of the clause, the words "and imposed upon" be inserted.

Amendment agreed to.

On the motion of Mr. SMYTH, the word "commissioners" was substituted for the word "commissioner" in the same line.

The MINISTER FOR MINES AND WORKS said he wished to move the omission of subsections 3, 4, 5, and 6, as the duties and obligations mentioned in them were the duties and obligations of the Commissioners, and not of the proprietors of the railway. The imposing of the conditions under which goods should be carried, the prescribing of regulations, the publishing of by-laws, and the enforcement of penalties, were all the work of the Commissioners.

The HON. SIR S. W. GRIFFITH said he did not understand the object of the hon. gentleman. It was not in accordance with the scheme of the Bill that the proprietors of the railway should be subject to such control; they were going to manage the line themselves. Clause 9 provided that Stafford Brothers should prescribe the tolls and dues payable on the railway. It was a private line, and surely the proprietors should be allowed to say how much they would carry goods for. The Commissioners had nothing whatever to do with it. The only matters with respect to which the Government could interfere, were the reduction of rates if they were too high, and the running of Government rolling-stock on the line. The Bill was one to authorise a private line, and the paragraphs proposed to be omitted gave the proprietors the necessary power to work it. Without them the Bill would be of no use at all.

Mr. BARLOW said that exactly similar provisions were contained in the Gulland Railway Act, passed in 1881.

The MINISTER FOR MINES AND WORKS said that, with the permission of the Committee, he would withdraw his amendment.

Amendment withdrawn accordingly, and clause, as amended, passed.

On clause 6—"Works for benefit of others"—

The MINISTER FOR MINES AND WORKS moved the insertion of the following new paragraph at the end of the clause:—

If any difference arises respecting the kind or number, dimensions, or sufficiency of such works, or respecting the maintaining thereof, the same shall be determined by the Commissioners.

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

On clause 7—"Power to parties to make private branch railways connecting with railway"—

The MINISTER FOR MINES AND WORKS moved the insertion of the following proviso at the end of the clause:—

Provided that, if any difference arise between the company and any person desiring to make any such connection as to the place where or the manner in which the connection is to be made, such difference shall be referred to and determined by the Commissioners, whose decision shall be final and binding upon both parties.

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

Clauses 8 to 11, inclusive, put and passed.

Clauses 12 and 13 passed with verbal amendments.

Clause 14—"Terms may be settled by arbitration"—and clause 15—"Penalty for not giving due facilities"—put and passed.

Clauses 16 and 17 passed with verbal amendments.

Preamble passed with verbal amendments.

The House resumed, and the ACTING-CHAIRMAN reported the Bill with amendments.

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

ADJOURNMENT.

The PREMIER said: Mr. Speaker,—I move that this House do now adjourn. The Government business for Monday will be the second reading of the Granville and Burnett Bridges Bill, after that the Diseases in Sheep Act Amendment Bill, and then the Estimates.

Question put and passed.

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