Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

TUESDAY, 24 SEPTEMBER 1889

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LEGISLATIVE ASSEMBLY.

Tuesday, 24 September, 1889.

Petitions—proposed railway from Roma to St. George—completion of railway from Cooktown to Maytown—sale of Lytton Reserve—charges made at Government tanks.—Printing Committee—report *re* circulation and cost of *Hansard*.—Message from the Governor—Civil Service Bill—assent.—Questions.—Formal Motion.—Caswell Estate Enabling Bill—third reading.—Drew Pension Bill—second reading.—District Courts Act Amendment Bill—second reading.—Supreme Court Bill—committee.—Message from the Legislative Council—Companies Act Amendment Bill.—Adjournment.

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

PETITIONS.

PROPOSED RAILWAY FROM ROMA TO ST. GEORGE.

Mr. DUNSMURE presented a petition from the mayor and residents of Roma and district, praying for the survey of a railway direct from Roma to St. George; and moved that it be read.

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

On the motion of Mr. DUNSMURE, the petition was received.

COMPLETION OF RAILWAY FROM COOKTOWN TO MAYTOWN.

Mr. HAMILTON presented a petition from the residents of the electoral district of Cook, praying for the completion of the railway from Cooktown to Maytown; and moved that it be read.

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

On the motion of Mr. HAMILTON, the petition was received.

SALE OF LYTTON RESERVE.

Mr. BUCKLAND presented a petition from 220 ratepayers, inhabitant householders, and electors of the Bulimba electorate, praying that the Government should not proceed with the sale of the reserve known as portions 166 and 167, parish of Bulimba, containing 104 acres more or less; and moved that it be read.

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

On the motion of Mr. BUCKLAND, the petition was received.

CHARGES MADE AT GOVERNMENT TANKS.

Mr. PALMER presented a petition from certain carriers in the districts of Burke, Mitchell, and Gregory, praying that a reduction might be made in the cost of watering horses at the Government tanks; and moved that it be read.

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

On the motion of Mr. PALMER, the petition was received.

PRINTING COMMITTEE.

REPORT *re* CIRCULATION AND COST OF "HANSARD."

Mr. JESSOP, on behalf of the Speaker as Chairman, presented the report of the Printing Committee, with reference to the cost and circulation of *Hansard*; and moved that it be printed.

Question put and passed.

MESSAGE FROM THE GOVERNOR.

CIVIL SERVICE BILL—ASSENT.

The SPEAKER announced that he had received a message from His Excellency the Governor assenting, in the name of Her Majesty, to a Bill entitled a Bill to provide for the better regulation of the Civil Service.

QUESTIONS.

Mr. GROOM asked the Minister for Lands—

1. Is it a fact that the timber reserve, comprising 7,000 acres, known as the Fairfield Timber Reserve, situated between Oxley Creek and Blunder Creek, about twenty miles from Brisbane, is being surveyed in 40-acre blocks for the purpose of being sold by public auction?

2. Have any applications been made to throw open parts of this timber reserve for homestead selection?

3. Was any reply made to such applications; and if so, to what effect?

4. Has it been decided that the whole area of the timber reserve is to be sold, or will any portion be reserved as a timber reserve?

5. Will all the frontages to Oxley Creek be sold, or will any portion be reserved?

The MINISTER FOR LANDS (Hon. M. H. Black) replied—

1. The timber reserve referred to, containing 5,460 acres, exclusive of two square miles to be retained as a timber reserve, and other necessary reserves for water on Oxley Creek, etc., is being surveyed into 40 and 100-acre portions, for sale by auction.

2. Yes.

3. In the first instance the applicants were advised that the question of opening to selection having been referred to the Land Board, the board pointed out in reply that the land was still a timber reserve, and that the Land Commissioner, Brisbane, had reported that it was not suitable for agriculture, and that he did not recommend its being opened to selection. Subsequently certain applicants were informed that on the recommendation of the Land Commissioner, the frontage to Oxley Creek and any flats or area suitable for cultivation would be surveyed into 40-acre farms and offered at auction, and that the balance of the reserve, excepting two square miles at the northern end of the reserve, not suitable for settlement, and which is to be retained as a timber reserve, would be opened to selection in 200-acre portions, the large waterhole at the south-east end, and any other suitable sites being reserved for water.

4. Since replies, it has been decided that the whole reserve is to be sold by auction, with the exception of two square miles timber reserve, and any other reserves necessary.

5. Yes; with the exception of those portions required as reserves.

FORMAL MOTION.

The following formal motion was agreed to :—

By the HON. SIR S. W. GRIFFITH—

That there be laid on the table of the House, copies of all reports made by Mr. C. A. Forster, lately inspector of Pacific Islanders at Ingham, since the 1st of January last, together with copies of all communications and correspondence since that date relating to the performance of his duties as such inspector, and copies of all minutes and correspondence relating to his removal from office.

CASWELL ESTATE ENABLING BILL.

THIRD READING.

On the motion of Mr. TOZER, this Bill was read a third time, passed, and ordered to be transmitted to the Legislative Council, for their concurrence, by message in the usual form.

DREW PENSION BILL.

SECOND READING.

The PREMIER (Hon. B. D. Morehead) said: Mr. Speaker,—In moving the second reading of this Bill, I at once admit that it is a Bill of an exceptional character; but it deals with an unusual case. The Government, and I think the House, are desirous that, the Civil Service Act having been passed, we should at any rate make as good a start as possible with that measure. The Government have cast about them with the desire of getting the best possible man for the position of chairman of the Civil Service Board, and they have found him in Mr. Drew. I think their opinion is shared in by a majority, and possibly by all the members of this House, and I believe it is shared in also by a majority of the Civil servants, that Mr. Drew, in whose favour this Bill is presented to the House, is the best possible man that could be got for the position to which it is intended to appoint him. It could not be expected that Mr. Drew should abandon and give up the office which he now holds, of high honour and similar emolument to that of the chairman of the Civil Service Board, without some compensation. It is proposed by this Bill that Mr. Drew should be allowed to draw to the extent of £250 of the pension he would be entitled now to draw upon retirement as Auditor-General. The actual pension he is entitled to retire upon at present would be £540. It is provided that in addition to the salary of £1,000 a year as chairman of the Civil Service Board Mr. Drew should be allowed to draw £250 of the retiring pension to which he would be entitled if he retired from the service at the present time. I have noticed that it has been said, and urged in the Press, that this Bill, instead of being made particular, should have been made general. I take exception to that view of the matter because it would put it into the power of the Government, if a general Bill was passed, by Executive minute to permit any person to retire from the service on half pension and also draw £1,000 a year. I think this is a case which, if it is to be dealt with at all, should be dealt with particularly, and that Parliament should have to deal with it, and that the individual name should be submitted to Parliament, and Parliament should have a say in the matter before such an appointment is made. That is the reason this Bill has been drafted. I think almost every member of the House knows the merits of Mr. Drew, and most of us know his capabilities for the position it is proposed to offer him if this Bill is passed. If the country secures the services of Mr. Drew for this position it will have secured, if not the most able man for the position, at any rate a man than whom there is no person in the service more capable for the position. Mr. Drew has taken a great interest in the measure from the first, and will enter into the work *con amore*. What the Government are now asking the House to do under this Bill will involve no loss to the country, as, if Mr. Drew retired he would, as I have said, be entitled to a pension of £540. The House, by passing this Bill, will be doing the best thing that can be done to make the Civil Service Act a serviceable one, and one that is likely to be practically worked out to a success. If we start upon the administration of an Act of this sort except with the best possible means for its working, it must lead to disaster, no matter how well the Act may be drafted. We must have a man able to thoroughly grasp and manage an Act of this sort, and I think hon. members will agree with me that we cannot do better than offer the position of chairman of the board to Mr. Drew. I think we can also be fully agreed, after his twenty-seven years' service, to accord to Mr. Drew rather less than half the pension he would be entitled to retire upon as Auditor-General in addition to the salary provided for the chairman of the Civil Service Board. I beg to move that this Bill be now read a second time.

The HON. SIR S. W. GRIFFITH said: Mr. Speaker,—I approve of this Bill, because I approve of the appointment of Mr. Drew as chairman of the Civil Service Board. I must confess that I have very grave doubts about the Civil Service Act altogether, and the more I think of it the more doubt I have. But I think that Parliament having passed that law, it is most important that it should be started under favourable auspices, and I know no more competent man whom the Government could have chosen for the position of chairman of the board than Mr. Drew. From what the hon. gentleman said, I apprehend that Mr. Drew is not willing to take a disagreeable office in exchange for an agreeable one at the same salary. I think the Government are quite right in asking the sanction of Parliament for what they propose to do. It would be very wrong to do it without that sanction. As I believe the appointment to be a good one, I shall support the Bill.

Mr. JORDAN said: Mr. Speaker,—I can only endorse what has been already said by the hon. gentlemen who have already spoken; but I must say a word in favour of the appointment, because I have known Mr. Drew for very many years, and have had many opportunities of coming in contact with him. I came into contact with him when I was Agent-General in England, and for the eight years during which I was Registrar-General, and I know the great capabilities possessed by Mr. Drew. I think the general opinion as to the appointment of that gentleman will be quite in accord with that expressed by the Premier and the leader of the Opposition—that Mr. Drew has qualifications which eminently fit him for this very important office. Like the leader of the Opposition, I have grave doubts about the Civil Service Act, and I have not much confidence in it; but I do not think the Government could find a man more fitted for the position of chairman of the board than Mr. Drew. As to the increase in salary, by which Mr. Drew is to receive annually an addition of less than half what he would receive if he were to retire upon his pension now, considering the length of time Mr. Drew has been in the Government service, that is only fair. Upon the whole the Bill is an admirable one, and the Civil Service will be under the management of a man eminently qualified to fill the position of chairman of the board.

Mr. GLASSEY said: Mr. Speaker,—I do not approve of this Bill, and I do not want it to pass without some protest being raised on my part. So far as my limited experience of this House goes, there are always apologists to be found in abundance, on both sides of the House, when money is to be granted to persons who have been extremely well paid in the past. I do not question Mr. Drew's abilities at all; but I think it is very desirable, when a matter of this kind comes before us, that some stronger reasons should be urged in favour of the proposal than we have had in the present instance. Notwithstanding Mr. Drew's ability—which I am not going to question for a moment—it is a sorry state of affairs if men of known capacity and of equal standing in the service cannot be found to occupy this position as well as the gentleman who is now offered the appointment at the salary fixed in the Civil Service Act—namely, £1,000 a year. On that account this Bill shall not pass without my entering a protest against it, and if a division is called for, I shall certainly vote against the Bill.

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

The committal of the Bill was made an Order of the Day for to-morrow.

DISTRICT COURTS ACT AMENDMENT BILL.

SECOND READING.

The HON. C. POWERS said: Mr. Speaker,—I do not intend to detain the House very long in moving the second reading of this Bill, because its general principles were approved of when the Legal Reform Bill was before the House. I intend merely to draw attention to the new principles introduced in the Bill. The leader of the Opposition, in discussing that portion of the Legal Reform Bill which dealt with district courts, stated that it could be introduced in a District Courts Act Amendment Bill; and I hope, therefore, that the second reading of this Bill will pass. If there are any objections made to any of its provisions in committee, I trust that they can be amended without interfering with the general principles of the Bill. The general principles of the Bill are—first, the extension of the jurisdiction of the judges, who are not to be limited to the districts to which they may be sent to attend to certain courts. The next principle is that the judges of the district courts, after they have served for fifteen years, if they are prevented from performing their duties through physical infirmities, should then be allowed to retire. As most hon. members know, the judges of the Supreme Court can retire at any time if, through physical infirmity, they cannot perform the duties of their office, or after fifteen years' service; but this Bill proposes that a district court judge shall not be entitled to a retiring allowance, although he may be incapacitated from performing the duties of his office, until after he has served fifteen years. The next principle is to allow speedy judgments in the district court, so that people may take advantage of the less costly court instead of having to go into the Supreme Court for speedy judgment. Provision is also made for the attachment of goods and the attachment of debts. The next principle is the extension of jurisdiction from £200 to £500—which is a very important extension of jurisdiction—and also in cases of defamation. Then there is a provision that writs cannot be issued for sums under £30, about which there has already been some discussion, and on which I will speak when we get to that section. Another provision provides for the easy removal of cases that can properly be brought before the inferior court, from the Supreme Court, on applying to the judge for such an order. There is another providing that district court verdicts in Supreme Court cases shall only carry district court costs. That is a very important provision, and one which I think would tend to cause parties to have their cases tried in the district court where the district court has jurisdiction. Then there is a provision to enforce the attendance of witnesses if they do not appear on being subpœnaed, and payment of expenses. Then comes a very important provision simplifying appeals from district courts to the Supreme Court. In the event of any question of law arising in the district court, the object is to make the appeal from the district court to the Supreme Court as simple as possible.

The HON. SIR S. W. GRIFFITH: So simple as to be impossible.

The HON. C. POWERS: The intention of the Bill is to make it as simple as possible, and if that is not accomplished by these clauses, it will be easy, when the Bill gets into committee, to make it simpler than it is at the present time, When we are dealing with the clause in committee, if the hon. gentleman can show that this is not a simpler method, we can alter it. Then there is the question of the extension of criminal

jurisdiction—which does not deal with capital felonies. In the interests of those living in the country, and of persons being brought into the chief towns to attend trials, where they might be properly tried in the Supreme Court, it is proposed to increase the power of district courts in their criminal jurisdiction.

The HON. SIR S. W. GRIFFITH: Where is the provision providing for that?

The HON. C. POWERS: In clause 49.

The HON. SIR S. W. GRIFFITH: That is a negative clause.

The HON. C. POWERS: It is proposed to repeal a section dealing with those exceptions in the District Courts Act, and to provide that those cases should not be triable under clause 49 of the Bill. Those are the principles of the Bill, and I propose now to show briefly how it is proposed to carry them out. Clauses 4, 5, and 6 enable judges of the district court to act throughout the colony, so that they can try cases in any part of the colony, instead of being limited as they at present are to certain courts which they attend in their ordinary circuits. Clause 7 provides that two judges or deputy judges may sit at the same place concurrently. If a district court judge is sitting here, it is proposed, if there is a second judge at Brisbane, to allow one of the judges to go on with chamber business, and give judgment summonses, and also that two judges or deputy judges may sit at the same place. Clause 8 is a new provision, allowing a judge to retire who, by reason of any physical infirmity, is disabled from performing the duties of his office, or if required by the Governor in Council, provided that such judge shall have served as a judge for fifteen years; and that he shall then be entitled to a retiring allowance equal to one-half of his salary at the time of his retirement. The clause dealing with Supreme Court judges, who receive a very much larger salary, provides that a Supreme Court judge shall be entitled to a pension of one-half of his salary after having served fifteen years, or at any time at which he may be disabled by reason of any permanent infirmity from performing the duties of his office. Under the clauses of the Bill now before the House a district court judge is not entitled to his retiring allowance unless he has actually at the time served as a judge for fifteen years. Clause 9, allowing judgment summonses in the district court, is an important clause, and has been dealt with by the House before. This clause and the following, up to clause 22, are really clauses under which speedy judgments are now obtained in the Supreme Court; and if clause 9 should be negatived in committee, all the clauses up to clause 22, inclusive, would be unnecessary. But all those clauses, as I hope to show if the Bill gets into committee, have been found to work very well in the Supreme Court in connection with the obtaining of speedy judgments. Clause 23, relates to the attachment of goods, and has also been found to work very well. That clause and clause 24, which provides for the attachment of debts, are almost copies of the Judicature Act. They did not appear in the Bill when it was before the House on the former occasion. Their insertion is the result of a suggestion made by one of the judges of the district court, who thought it would be extremely advisable to confer that power on district courts. The clauses down to clause 33 provide the means for carrying out clause 24. Clause 34 relates to jurisdiction in an action between a registered company and its members. I know the leader of the Opposition does not consider this necessary, but it has been deemed necessary to insert the clause on account of certain decisions that are against the statement of the law as laid down by the hon. gentleman. Clause 35 deals with the extension of the civil jurisdiction of the district court from £200 to £500, and it will be for the House in committee to say whether we are justified in making that extension. Clause 36 is similar to one in our present Act, providing that district courts shall have jurisdiction in partnership accounts, and for a share in intestacy or under a will. At present that is limited to £200, but if the increased jurisdiction is given in clause 35, I think it may fairly be increased in clause 36. Clause 37, with the omission of the words "libel or slander" after "defamation," will give the districts courts jurisdiction to hear and determine libel actions whether the amount does or does not exceed £500. Under clause 42, if a writ is issued in the Supreme Court, and the defendant wishes the case tried in the district court, he can apply that it be heard in that court; and clause 37 gives the necessary jurisdiction, so as not to limit the amount to £500, because the claims in libel actions are seldom £500. They are more likely to be £2,000 or £5,000, and clause 37 is intended to provide that such cases may be heard in the district court, whatever the amount of the claim may be. Clause 38 deals with questions of compensation for resumption under the Railway Act and the Public Works Lands Resumption Act of 1878. At present, under the Public Works Lands Resumption Act, there is a right to go to the district court, when the amount is under £350, and under the Railway Act if the award is under £500 there is no appeal at all. In that event the only thing the parties can do, in the first place, is to try and get a re-hearing, and if they are not successful, to try and influence this House, as was done in the Corser case, to grant a reasonable sum. But there is no appeal if the amount is under £500, even though the claim may be £8,000, which it was in the Corser case. The award, however, was only £250; on the rehearing the same award was made, and the parties had no remedy but to come to this House, and £1,500 was allowed to them. That only shows that, at any rate, some sort of an appeal should be provided for in cases of that kind. Under clause 39:—

"A plaintiff may, if he shall think fit, cause a defendant to be summoned to the district court within the jurisdiction of which any debt was contracted or work done, or the cause of action otherwise arose."

That is allowed in the small debts court, and a great many cases have arisen in the district court where, by the want of a similar provision, persons have had to go into the Supreme Court, or reduce their claim so as to bring it within the jurisdiction of the small debts court. The provision is one which I think every hon. member will admit should come within the jurisdiction of the district court. Clause 41 is the one which was so severely criticised the other evening by the leader of the Opposition, who pointed out that it was entirely out of place in the Supreme Court Bill, because certain remedies are provided for in the Supreme Court which cannot be obtained in any other court. There should be a right to arrest, that is, to issue a writ of *capias* against persons leaving the colony. There is no right to do so where the amount is under £20, and we can get over any difficulty in the matter by fixing the amount at £20, if it is pressed. The other objection was that there is no way of getting speedy judgments except in the Supreme Court; but if clause 9 is passed that will be provided for. I contend that if we give speedy judgment in the district court, and give the right of attachment for debts and goods, and these other rights, we are justified in passing such a section as this. We know that in many cases writs are issued in the Supreme Court for

small amounts—from £1 10s. up to £10, £15, and £20, in which £4 14s. 6d. is demanded as costs, and £9 9s. if the amount is not paid within the eight days. In the return I brought before the House a short time ago, I showed that 200 cases of that kind had been brought where the amount was under £30, and there can be no question that those cases were not brought for the purpose of arresting or because they were not triable in the district court or on account of costs, but because there is no speedy judgment in the district court. If we provide for that, we shall do away with the necessity for those writs. It is not a question whether the plaintiff or the defendant gets costs or not, but whether the plaintiff has a right to take these small cases into the Supreme Court and demand £4 14s. 6d., or £9 9s. if the party does not pay within the eight days. If we give the rights which we propose to give by this Bill, I think we are justified in passing this section. I am quite agreeable that it should be amended in such a way as may meet the views of the House generally. The next clause provides for the removal of actions from the Supreme Court to inferior courts, and is a very important one. Where the claim does not exceed £500, or has been reduced by payment into court or by a set-off or otherwise, so that the amount in dispute does not exceed £500, or where the claim is in respect of any alleged defamation, it shall be lawful for either party to ask that it shall be tried in an inferior court, and unless good cause is shown to the contrary the judge shall order accordingly. There may be an objection to that, that it does not give notice to the other side, but that can be remedied by inserting a proviso to the effect that reasonable notice shall be given to the other side before such order is made. Clause 43 provides—

"In any action in the Supreme Court which the district court would have jurisdiction to hear and determine, the plaintiff shall have judgment for such sum, if any, as he shall recover judgment for by default, verdict, or otherwise, and costs on the district court scale only."

Then if we pass clause 41, the remainder of the clause should read "unless the consent of a judge to issue a writ in the Supreme Court for the recovery of the amount claimed has first been obtained." If we pass clause 41, I think the hon. the leader of the Opposition will agree that if persons bring actions in the Supreme Court they should only get costs on the district court scale, unless it has been shown that the cases were not properly triable in the district court. Clause 44 provides—

"Where in any district court action the verdict obtained by a plaintiff exceeds the sum of one hundred pounds, or where the claim exceeds one hundred pounds and a verdict is given for the defendant, the judge of such court may give judgment for costs in any fixed sum not exceeding thirty pounds exclusive of mileage and witnesses' expenses, instead of giving a judgment for costs to be taxed by the registrar of the court."

In cases under £100 in the Supreme Court, the costs range from £50 to £500 and £600.

Mr. TOZER: More.

The HON. C. POWERS: I know that; but in cases where the verdict does not exceed £100, I think I am safe in saying that the costs vary from £50 to £600; and if we allow the district courts jurisdiction up to £500, where the costs range from about £15 to £30—that is the costs allowed on taxation—instead of from £50 up to £600, I think we may very fairly fix the amount at £30, or whatever other sum the House in committee think desirable. Clause 45 is merely a copy of the law as it stands now, with one addition—that is, that if a witness does not attend, he may be not only fined, but a warrant may be issued to make him attend. Clause 46 relates to appeals from the district court to the Supreme Court. I do not understand the interjection of the hon. the leader of the Opposition, that this would be making the law so simple that we could not do it at all. That is not the intention of the Bill. The intention is to make appeals to the Supreme Court more simple than they are at present.

The HON. SIR S. W. GRIFFITH: Under this scheme it will not be possible for the Supreme Court to decide any appeals, because they will not have anything to go upon.

The HON. C. POWERS: The only questions they decide now on appeals from the district court are questions of law, or the reception of evidence.

The HON. SIR S. W. GRIFFITH: How they are to decide the law without knowing the facts I do not know.

The HON. C. POWERS: The question of facts is a question to be tried in the district court.

The HON. SIR S. W. GRIFFITH: But if you remove a case into the Supreme Court the judges will want to know upon what the decision of the district court was founded.

The HON. C. POWERS: That is provided for in clause 47, which states:—

"The presiding judge shall take notes of the evidence and particulars of the objections, if any, made at the trial, to the rejection or admission of any evidence, and of any question of law raised at such trial or hearing, and of the facts in evidence in relation thereto, and of his decision thereon, and append the same to the proceedings."

It is on a question of law that the appeal will be made, and the section which I have quoted directs the judge to take notes of the evidence and particulars of objections, and of the facts in evidence relating thereto. I cannot, at present, see that more could be required. If, however, the leader of the Opposition can show how the clause can be amended or improved, I shall be very glad to accept an amendment in committee. At the present time the proceedings in appeals are as follow: The judge takes the notes, then the plaintiff prepares a case and sends it to the defendant, the defendant sends it back to the plaintiff, then the plaintiff sends it to the judge. The judge then sends it back to the plaintiff, and he sends it on to the registrar. All these proceedings are based on the judge's notes, and I contend that under these clauses we shall have more than that; we shall have the judge's notes, the particulars of objections, if any, of the facts in evidence relating thereto, and of any questions of law raised at the trial. But, as I have said, if in committee it can be shown that the provisions can be improved, I shall be very glad to accept any amendment in that direction. These clauses, I may state, have been discussed by two judges to whom they were submitted—Mr. Acting Justice Chubb and Mr. Judge Paul, and also by a barrister. Surely we are not all at sea in the matter. The Bill has not come before the House without being discussed by those who have experience in the working of the district courts, and they believe that these provisions will meet the requirements of the courts. We may all be wrong, but whatever may be wrong in the Bill can be amended in committee. I have now explained the principles of the Bill, and there is no need to detain the House any longer in moving the second reading, because hon. members, judging from what I have seen and heard, are of opinion that district courts should have extended jurisdiction; that means should be provided for obtaining speedier judgment in the district court, and that some steps should be taken in the direction in which the law is proposed to be amended by this Bill. When the question of amending the law in

relation to district courts was discussed before, in the debate on the Legal Reform Bill, the leader of the Opposition said—

"I will say now the extent to which I entirely agree with the hon. gentleman in this branch of the subject. I think the jurisdiction of the district courts might very properly be extended to £500. I entirely agree with him in that, and I think, moreover, that many actions above £500 ought to be referred to a district court on the application of the defendant, on reasonable grounds being shown."

Further on the hon. gentleman said—

"I think that persons who desire to get that relief should go to the district court. But if the district courts were enabled to give judgment speedily in the same manner as the Supreme Court does, and if their jurisdiction were extended up to £500, which is an arbitrary figure to which I am agreeable, and persons who unnecessarily went to the Supreme Court were deprived of any costs, then the evils which the hon. gentleman had spoken of, as far as costs are concerned, would practically be remedied."

He also said—

"I quite agree with the hon. member that in cases where an action has been brought in a superior court which could have been brought in an inferior court, and larger expenses have therefore been incurred, the successful parties should not recover the larger expenses, unless for special reasons the action was properly brought in a superior court. It would be absurd to lay down a hard and fast rule on the subject. All these matters relate to an amendment of the District Court Act, and I am disposed to agree with the general scheme proposed."

In those remarks are really embodied the principles of this Bill with one exception, and that is the provision which will entitle district court judges to retire on half pay if they have served fifteen years, and through any physical infirmity are incapable of performing the duties of their office. What the leader of the Opposition approved of in the extracts I have quoted are the principles of the Bill which I ask the House to affirm by passing the second reading of the Bill, with the additional provision I have just mentioned. I therefore move that the Bill be now read a second time.

The HON. A. RUTLEDGE said: Mr. Speaker,—I very much regret that a Bill of such importance as this is should have been delayed until this late period of the session before being introduced. It is not a very light thing to proceed to a radical amendment of the laws relating to the administration of justice, and I think that when an attempt of that kind is made—such as the attempt we have before us in this Bill—the Bill itself, in the precise form in which the Government desire to see it passed, ought to be in the hands of hon. members for a sufficiently long time to enable them, not only to make themselves acquainted with the nature of the proposed changes, but also to revolve the subject in their minds, so as to be able to form an opinion as to whether the changes proposed are in themselves desirable or not. This is a Bill that, owing to my absence from Brisbane, I have not had time to read with the same care that I should like to have given to it, though that is my fault, and not the hon. gentleman's; but I have glanced through the Bill, and I am able to recognise some of the provisions which appeared in that rather ambitious measure which was submitted by the hon. gentleman when he proposed to deal with some thirteen subjects in his Legal Reform Bill. I myself think that there is some amendment needed in the law with regard to district courts as contained in the District Courts Acts of 1867 and the two or three amending Acts which have been passed since that year, but it would have been far better if the Government had deferred dealing with this question until they were in a position to bring down a new District Courts Bill altogether. There is perhaps one matter of some little urgency that the Government might have been excused in dealing with at this late period of the session, and if they had proposed to confine themselves to that matter of urgency there would have been very little, if any, objection to dealing with it. I refer to making provision for the retirement of district court judges who have served a certain period. It is very well known that there is one judge of the district court who has been a very long time in the service of the country, and who has rendered very faithful and efficient service in the capacity of district court judge. I allude to District Court Judge Paul. His health has been of a rather precarious character during the last two or three years, though I am glad to say it is somewhat improved, in fact considerably improved, now. If the Government desire, as I presume they do, to make provision for him that might have been done in a very short Bill that are here brought before our notice. While without touching the whole of the subjects upon the subject of retirement, I may say that I do not at all agree with the proposal of the Government as set forth in section 8 of the Bill. There is no sufficient reason why a district court judge, who is incapacitated by infirmity for the discharge of the duties of his important office, after he has been appointed to that office, should not receive the same consideration as a judge of the Supreme Court is entitled to receive if he should be incapacitated by infirmity from discharging the duties of his office within any time after he is appointed to the office. I do not say that the same consideration in regard to the amount of salary should have been extended, but I say that if a man is unfortunate in regard to his health—if a district court judge is incapacitated by illness—and it must be remembered that they have more arduous duties to perform in some respects and longer journeys to travel—that if his health breaks down within twelve years of the time of his elevation to the bench, he ought to be allowed to retire on half salary just as if he had discharged his duties for fifteen years. I do not desire to say more on that point at this stage, but I do say that the Bill as it is presented by the hon. gentleman does not meet my approval. I see evidence in this Bill of a desire to get something put before this House which will be accepted as a sort of instalment of reform without paying that sufficient regard to minute detail which ought to characterise a Bill of this sort. Look, for example, at what we have in clause 6. That clause, and clause 7, is a recognition of the existence of district courts and districts in which those courts shall have authority to sit. Section 7 says:—

"Whenever, and as often as it appears to the Attorney-General or to the Minister of Justice desirable for the more speedy disposal of business that two judges of the district court should hold courts or sit in chambers concurrently for the disposal of business at the same place or in the same district, it shall be lawful for any two judges of district courts, upon the request in writing of the Attorney-General or of the Minister of Justice, to hold courts and to sit in chambers at the same place or in the same district, and to exercise all or any of the jurisdictions of district courts or of judges of district courts in relation to all or any business disposable at such place either concurrently or at such times as may be convenient for the disposal of such business, and the provisions of this section shall apply equally to any deputy judge or judges of district courts as to any judges of district courts."

I maintain that in that clause there is a recognition of separate districts, while the Bill aims at conferring upon a judge of one court concurrent authority with that possessed by a judge in another district; yet there is no recognition of the existence of the division of the colony into districts, and we find, at the same time, that another clause repeals that portion of the District Courts Act of 1867 which provides for the existence of different districts. In section 7 we find ample recognition of the existence of different

districts, while the authority to create districts, to parcel the colony out into several districts, is done away with by the repeal of section 3 of the Act of 1867; yet there is a retention of the authority of the Governor in Council to amend the districts or boundaries. I say that is really a crude and imperfect way of dealing with a matter of this sort. Either there should be authority to parcel out the colony into districts, or there should be no such thing as districts. We find also in the Bill provisions made for bringing all the cases at a certain place nearest to the district. What district? If section 3 is done away with, what will be the districts? Then there are provisions in the District Courts Act of 1867, which regulate the procedure in cases where the plaintiff or defendant may be within two miles of the boundary of a district. That is all retained here, and yet we find that the very foundation of the whole thing is done away with by the abolition of the power conferred by the Act of 1867 on the Governor in Council to create districts. That is a portion of the measure which ought to have received very much more consideration than it has received. I have only gone through the sections hastily, but what necessity is there in a Bill of this sort to refer to the "Attorney-General or Minister of Justice." It says the Attorney-General or Minister of Justice may do certain things. Now, there can be, according to our law, no Attorney-General and Minister of Justice existing at the same time. This cannot refer to alternative officers in existence at the same time, but I believe it means that if there is no Attorney-General, then certain things can be done by the Minister of Justice. What is the need for that when our own Department of Justice Act abundantly provides that anything the Attorney-General is by law authorised to do, the Minister of Justice may do also. Although that is a very small matter, it goes to show—I do not mean any disrespect to the hon. gentleman in charge of the Bill—it goes to show the 'prentice hand.

The HON. C. POWERS: I had nothing to do with it.

The HON. A. RUTLEDGE: Then I am glad to be able to acquit the hon. gentleman. I thought better of his powers as a draftsman than that in a small matter like this he would have displayed such want of knowledge, and I am very glad he is not responsible for it. He must, however, accept the responsibility of bringing the measure before the House, and I consider that a good many things that have escaped his notice should not have escaped it. The hon. gentleman ought not to allow us to find out mistakes of this sort—to discover these things which are so palpably and manifestly erroneous. He ought rather to have brought the Bill down in the form in which he wished it to be accepted by this House. Now, he has told us a good deal about the necessity for making provision for speedy judgment, and I quite agree with him; but I think he should have provided machinery in the exact way in which we might expect to find it provided. I am not going into minute criticisms upon the defects of these provisions, but it is quite safe to say that the defects are very numerous. The defects which exist in making these desirable provisions are very numerous, and simply go to show the paste and scissors kind of way in which the Bill has been put together. The hon. gentleman tells us that he has taken a lot of these provisions from the Judicature Act. He has taken them bodily from that Act, and they are taken so literally that we find that in some cases certain things are to be done in the discretion of the court or the judge. Now, is there not evidence of haste and inattention in the preparation of a measure of this sort? It simply shows that the provisions of the Judicature Act have been cut out and stuck on a paper and printed at the Government Printing Office, and made to form part of this Bill. I say that is not the kind of way to go to work in order to put together a Bill which aims at so very radical and important an alteration, and which affects the interests of a large portion of the people of this colony. Now, I find the hon. gentleman has said a great deal about the alteration providing for the extension of the jurisdiction of the district court to actions involving £500. Well, I say that that is very good. No doubt it is a desirable thing to increase the jurisdiction of the district courts to cases in which as much as £500 is in dispute, but on looking to section 42 we find that it declares that when a case has been commenced in the Supreme Court, and in which more than £500 is not claimed, that either of the parties being dissatisfied may apply to a judge of the Supreme Court, and make application that the case may be settled in the district court; the judge then has no discretion whatever, if a good case is made out, but to remit the case to the district court. I think that is a very great hardship. Because one man is dissatisfied with an action having been commenced in the Supreme Court, he can go to a judge of the Supreme Court and ask that the action should be remitted to the district court. Unless an overwhelming case is made out, why should it be remitted? Under this provision the judge has no alternative but to remit it and send the case down to the district court, although he may see many good reasons, if he had a right to exercise his discretion, why it should not be sent down. But under this section the judge is bound imperatively to send the case down to the district court for trial. I may be called hypercritical in dealing with the Bill in this way, but I am bound to draw attention to the defects which struck me in hastily reading the Bill through. I am bound also to say that I have not had time to read it through with sufficient anxious care to find out all the defects which may exist in it. I would like to know what this means? In this same section 42 it is provided—

> "And thereupon the plaintiff shall lodge the original writ and the order with the registrar of the court mentioned in the order, together with a plaint in the form required by the practice of the district courts, who shall appoint a day for the trial of the action."

Now, who is to appoint the day? Is the plaintiff to appoint the day? That seems to me the grammatical reading of it; but I will defy a Philadelphia lawyer to find out from this section who is to appoint the day. That is one thing that struck me in passing, as another evidence of the haste with which this measure has been constructed—for constructed it has been, and not properly drafted. Now we come to section 43, and we find:—

> "In any action in the Supreme Court which the district court would have jurisdiction to hear and determine, the plaintiff shall have judgment for such sum, if any, as he shall recover judgment for by default, verdict, or otherwise, and costs on the district court scale only, unless the consent of a judge to issue a writ in the Supreme Court for the recovery of the amount claimed has first been obtained."

Now, here is a provision dealing with costs, and the scale upon which costs shall be paid, and it assumes the existence of a provision that has no existence in any former part of the Bill in reference to a matter of this sort. The only provision on the subject is one in which the sanction of a Supreme Court judge is required before a writ can be issued in the Supreme Court, where the amount claimed does not exceed £30. If the amount claimed does not exceed £30, section 41 provides that the man who wishes to issue the writ can go to the Supreme Court, and obtain the sanction of a

judge to issue the writ in the Supreme Court. That is intelligible; but when we come to section 43, provision is made by which an unfortunate man shall be deprived of costs to which he is entitled, unless he shall have gone and done something which there is no provision beforehand authorising him to do. If this Bill pass as it is now, and any litigant comes to a Supreme Court judge to make such an application as this, the judge would say, "What are you doing here?" The answer would be, "Please, your honour, I have come to make an application for sanction to issue a writ against a man for £450." "You have. Will you be good enough to show me the authority under which you ask me to sanction the issue of a writ for £450. That exceeds £30. If it did not exceed £30 I could understand your business here, because section 41 provides that if the amount does not exceed £30 I may give my sanction to the issue of a writ. But what do I care what you do if the amount you claim does exceed £30. Go about your business."

The HON. C. POWERS: Quite right, too.

The HON. A. RUTLEDGE: I say that under this section a man cannot get his proper costs, unless he has first obtained the sanction of a judge to the issue of his writ, and the judge has no authority under the Bill to give him that sanction.

The HON. C. POWERS: Because he has not gone into the district court.

The HON. A. RUTLEDGE: I say that is a most unjust provision, and is only another proof of the haste with which the whole thing has been put together.

The HON. C. POWERS: That was done in cold blood.

The HON. A. RUTLEDGE: I may say then that it would have been more satisfactory to have heard it was done in warm blood; it ought to have been done intelligently, however it was done. Then there is section 44, which makes this provision:—

"Where in any district court action the verdict obtained by a plaintiff exceeds the sum of £100, or where the claim exceeds £100 and a verdict is given for the defendant, the judge of such court may give judgment for costs in any fixed sum not exceeding £30 exclusive of mileage and witnesses' expenses, instead of giving a judgment for costs to be taxed by the registrar of the court."

What a monstrous provision that is! I am brought to the district court to defend an unjust claim, and I succeed as defendant in the action; and though I may have to pay £200 or £300 in law costs to defend myself against this unjust claim, the judge of the district court is by this clause authorised to award only £30 to cover the entire costs of the defence which I have successfully maintained. That is a provision which ought not to exist in a Bill of this sort, and it is one which will tend to produce a very great deal of unnecessary hardship. I noted one or two other things to touch upon, but I shall not deal with them now. It is sufficient at this stage, I think, to say that the Government would have done much better—if they are not prepared to bring down a comprehensive amendment of the District Courts Act—to have confined themselves to one point which, I think, is of some urgency, and that is, the making of provision for the retirement of district court judges, having in view the case of Judge Paul, to whom I have already referred. To touch upon that question generally, what good reason is there for requiring a district court judge to serve fifteen years before he shall be entitled to retire upon his pension? No good reason can be assigned for it. I am quite satisfied such a condition will militate against obtaining the most efficient persons for the office. I am glad, however, to be able to say that it is a step in the right direction. I know the Premier is in favour of it, because he told me so some time ago when I mentioned the matter during a discussion upon the Estimates. I know the hon. gentleman is in favour of some provision being made for district court judges, but this provision does not go far enough to please me. The judges of the district court have to perform very difficult and often dangerous journeys, and are subjected sometimes to real hardships in the prosecution of their duties which render them liable to have their health seriously affected. It would be a cruel thing to say that a district court judge who had served the country faithfully for fourteen years, and who was suddenly stricken down by illness, should be disentitled to his pension because he had not served the fifteenth year as well. I say that a Supreme Court judge or a district court judge who, by no fault of his own, but from an accident or illness, is rendered unable to continue the discharge of his duties, should be entitled to retire upon his pension whether he has served fifteen years or only one year. That would be compensated for by the fact that we shall never find a district court judge retiring at the end of fifteen years if his health permits him to serve longer. He cannot afford to do it, because the salary is so inadequate to maintain the position he is called upon to maintain. Any loss, if it can be called a loss, that the State might suffer through a judge retiring before the end of fifteen years, would be more than made up by the saving of the retiring allowance in other cases during all the years that would be served after the fifteen years. This Bill either does not go far enough or it goes too far. In my opinion, for a Bill of such importance, being introduced at this stage of the session, it goes too far. If it had been brought in at the time the hon. gentleman brought in that big Bill of his we should have had time to thoroughly digest and understand it, and something might have been done with it; but it is too voluminous a measure for this House to attempt to pass, unless the Ministers wish to see the session protracted—and I am sure neither they nor we wish the House to sit for another five or six weeks. The Bill is too voluminous to be passed at this stage of the session, and in view of the important Bill dealing with the Supreme Court coming on presently I recommend the Government to allow this Bill to be slaughtered along with other innocents.

The HON. SIR S. W. GRIFFITH said: Mr. Speaker,—I am sorry that no one on the Government side of the House is able to take up the defence of this somewhat unfortunate measure. There are a good many things in it which are attempts to make improvements in the existing law, but the attempts have been made in such an unfortunate way that it will certainly take a very long time before the Bill can be perfected. My hon. friend, the member for Charters Towers, has referred to some of the defects in the Bill, but there are others. For instance, the whole of the District Courts Act now in force is based upon the assumption that the colony is divided into districts. Part of this Bill is based on the same assumption, but the framers of the Bill begin by repealing the law dividing the colony into districts. Surely the framer of this Bill, whoever he is, did not consider what he was doing. When it is intended to amend the law the first thing which should be done is to ascertain what the existing law is. Really what is proposed to be done here is first to cut away the foundation, and then begin to pile something on the top. The result in the case of law,

as in anything else, is that the whole edifice will tumble down. There are some very extraordinary provisions in the Bill. Amongst other things it is proposed to give the district courts jurisdiction over cases of title to land, and that is a very serious alteration to make in the existing law. Another idea of one of the framers of the Bill—for its seems there have been several—is that the only thing for which actions can be brought is to recover sums of money. There are a great many other kinds of action, and that is only one of many. The framer of the Bill did not consider what was the object of the framers of the original District Courts Act. That was a scheme entirely for the recovery of debts or liabilities which resolve themselves into debts, and part of this Bill is based upon that principle. Other parts, however, are based upon a quite different principle. The district courts are now to deal with all kinds of cases. In fact, the Bill is based upon entirely contradictory principles. I think that to give the district courts jurisdiction in cases concerning title to land is a matter which requires very serious consideration. That is proposed by this Bill, though I do not believe the hon. gentleman is aware of it. I referred previously to the question about actions for under £30. I do not see why actions for under £30 should not be brought in the Supreme Court if circumstances justify doing so. The only argument I have heard in favour of compelling such cases to be brought in the district court is that some solicitors have made use of the power to bring such cases before the Supreme Court as a means for levying blackmail. If they have, surely the remedy is to prevent their doing so—not by abolishing the power of the plaintiff to bring such an action in the Supreme Court, but by giving notice to the defendant that costs cannot be claimed. There is the way to remedy the matter without doing injustice to anyone; but instead of that we are asked to abolish the whole thing. It seems to be the idea of some persons when anything goes wrong to abolish the whole system. Before we alter our district court system it might be worth while to consider what was the object of the framers of the scheme. That law was introduced by intelligent persons, and was not a mere accident, and we should give some consideration to it before we alter a system which has been in operation for a good while. Instead of that the framers of this Bill seem to say, "Oh, here is a mistake, let us wipe the thing out." It might as well be argued that because a decision given by a judge of the Supreme Court was reversed by the Privy Council, we should therefore abolish the Supreme Court. It is really like contending that if the Supreme Court makes a mistake we should abolish it; if the district court makes a mistake, abolish it; and if the courts of petty sessions make mistakes, we should wipe them out and have no more justices of the peace. That is not the way to remedy evils. The parts of this Bill which are good are those which provide for speedy judgments. That is a very important provision. I understood that the Government had that in hand some weeks ago. Some parts of the Bill are taken almost bodily from the Judicature Act, including some provisions which are entirely inapplicable to the district courts. There is also a somewhat unintelligible provision inserted to provide for judgment by default in the district courts. That would be a very good thing, and would be a very great convenience, as at present a person cannot get relief until a judge happens to go that way. If the first twenty-two sections were made intelligible it would make a great improvement in the existing law, but the other parts of the Bill seem to have been drawn up without any distinct idea of what the existing law is. I stated the other day that I was in favour of the extension of the jurisdiction of the district courts to all cases under £500, I was strongly impressed by the arguments made for that extension; but since then I have seen cause to modify those views. I have had no personal experience of the district courts now for many years past, so I do not know much about their practice, but it has been represented to me that many inconveniences would arise if absolute jurisdiction were given to the district courts in all cases up to £500. In the first place there would be many more cases to be tried by the district court judges, and the more important cases certainly require to be dealt with more seriously than cases involving only a few pounds. Cases involving claims for large amounts, and mercantile cases—no matter how difficult they may be—would have to be left to the district courts, where the work is done more or less hurriedly, except perhaps in Brisbane. I think there is very grave objection to giving the district courts practically exclusive jurisdiction in large matters of all sorts. Another objection has been pointed out to me in consequence of my expression of opinion before, and it has been pointed out by people who know more about district court practice than I do. They have told me that I am wrong, and I confess that my previous views have been shaken in consequence. The objection is that, if these cases are all to come before the district court, in many towns in the colony there is no choice of advocates, and probably the plaintiff may secure the services of the only solicitor in the place who has any experience as an advocate, and, in addition, he may secure the services of the Crown Prosecutor when the case comes on, leaving the case practically undefended. That would be a very serious matter, because courts are established to do justice to both sides. Then, again, the time which is at the disposal of the judges of the district court in which to do their work is limited. I am not going through the Bill in detail. I am merely referring to those matters which I think deserve very serious consideration. Then there is the provision for an appeal At present there is only an appeal to the Supreme Court on questions of law. Notes of the evidence can seldom be important, though they may very likely be voluminous, and involve a considerable amount of expense in copying. But they are perfectly immaterial unless the question is: Was there any evidence to justify the finding? That is the only possible case in which it could arise. During the twenty years I have been at the bar, I only remember one case in which that point was reserved for the Supreme Court. The judge in the district court, or the jury, finds the facts; and if the facts are found, what do you want the evidence for? Only to inquire whether there was any evidence on which the jury could find. All this is unnecessary and needless expense. As to the extension of criminal jurisdiction, that is a matter for serious consideration. But the fact is that this Bill, having been drawn with a total disregard of the basis of the District Courts Act, which depends on the division of the colony into districts—the jurisdiction being founded on that—an element of confusion has been introduced into it which it will take a very long time to put right. We might possibly pass the clauses relating to more speedy judgment and judgment by default; but if the Government intend to go beyond that part of the Bill, I think they will find such difficulties arising that it will have to be either entirely altered or withdrawn.

The PREMIER said: Mr. Speaker,—The hon. gentleman concluded by saying that if the Government wish to do more than pass two short sections, the Bill will have to be entirely altered or withdrawn.

The HON. SIR S. W. GRIFFITH: I say the Bill will have to be re-drafted.

The PREMIER: In other words that mean that what the hon. gentleman chooses to vote for will be passed, while all the rest is to be done away with. It seems to me that the hon. gentleman has only taken into regard the wealthy litigant. He does not seem to have any regard to men of small means whose cases have to be decided in the lower courts. He said, in a lordly way, that he had not been in the district court for years. I quite believe that, but he must remember that there are some of those whom he prides himself as being the representative of—the working class—who cannot afford the luxury of employing his services, and who are compelled to have their cases decided in the lower courts. This Bill, whether correctly or incorrectly drawn, is on the lines of letting there be some finality to those people who cannot afford the luxury of employing the leader of the Opposition's services. That is what is really intended. I would point out that, even if the hon. gentleman is right in his contention that the public ought to go to the higher courts, there are difficulties there from which the lower courts are free. We are surrounded, I am sorry to say, with difficulties in the Supreme Court that do not meet us when we have to deal with litigation in the lower courts. We know that there are cases where there are, let us say, A, B, and C—I will not mention names. A is a judge, B is a barrister, and C is an attorney. All hon. members who can read between the lines know perfectly well what I mean; and I think it is as well that the public should know that there is an A, a B, and a C, in the administration of justice even in the highest court in Queensland. I have said so, and I stick to what I have said. By this Bill it is proposed, whether adequately or inadequately, my legal knowledge is not sufficient to enable me to offer an opinion on the subject, to meet cases which can be properly dealt with in the lower court, and to prevent the poor client from being compelled to go into the higher court.

The HON. SIR S. W. GRIFFITH: The intention is an admirable one.

The PREMIER: The intention of obstructing it is not an admirable one on the part of the leader of the Opposition. With regard to the first portion of the Bill, where it is proposed to give pensions to district court judges, I think most hon. members will agree that that is admirable too. I think some considerable consideration should be given to those gentlemen who, for a not very excessive salary, occupy the position they do. I am inclined to think that if the salary was increased we might get abler men to occupy the position—to dispense justice and law throughout the colony—than we have at the present time.

The HON. SIR S. W. GRIFFITH: And yet you propose to impose upon them much more important work.

The PREMIER: I was going to add, when the hon. gentleman interrupted me, that this addition to their work, giving them an extended power of jurisdiction, would give emphasis to the remark I made that their salaries should be increased. I hope the leader of the Opposition will assist in passing at any rate what he considers the better parts of this measure into law, and not content himself by saying that because certain portions of it are badly drafted, or not drafted in accordance with his views, therefore the whole Bill is to be withdrawn. Because if strong opposition is made to it at this period of the session the whole thing must go.

The HON. SIR S. W. GRIFFITH: I said I hoped you would succeed in passing some parts of

The PREMIER: If the Bill goes into committee what the Government will do will be to try to pass those parts of the measure which will be most useful, and it will be a step, we hope, in the right direction made in the interests of the colony. I hope the second reading will not be opposed.

Mr. TOZER said: Mr. Speaker,—As I have had considerable experience of the working of district courts, it will be naturally expected that I should address a few observations to the House on the subject of the Bill before us. I have had, I may say, a lifelong experience of the working of the districts courts and of the Supreme Court in this colony, and the Government may expect from me all the assistance in my power in furthering this measure into law. There are certain difficulties which anyone must perceive on reading the Bill. In the first place, a Bill of this kind ought to have been brought in earlier in the session, and submitted to the district court judges, who, in going round the colony, necessarily find out all the weak spots in the District Courts Act. I am sure it would have been far better, in the interests of the administration of justice, if this measure had been submitted to those gentlemen, and their observations upon the practical working of the District Courts Act had been obtained. However, quite apart from that, as there is something really good in the measure, I shall not oppose it; indeed, as far as I am concerned, I shall give all the help in my power to put into law such clauses as I think are really wanted in the present circumstances of the colony. I think the public appreciate the district courts. I am satisfied that the district courts work as well, comparatively, as the Supreme Court. The procedure of the district court has been tried in matters considerably above the jurisdiction of £200. The legislature has affirmed the principle, that a district court is fit to try actions up to £500 for injuries against the person, as well as accidents and things of that kind. Under the Employers Liability Act the House has said that the district court judge without a jury shall try cases up to £500. This session it has said that those courts shall try all cases of accidents connected with mining up to £500. Another provision of the legislature is that the district court judges shall try all cases relating to gold miners, no matter what may be the amount involved—if it is even up to £5,000,000. We have had some experience of the working of that, and so far the result has been most satisfactory. I can say, on behalf of the district court judges, whom I have seen in various parts of the colony, that really they do their work carefully and well. They try their very best to carry out the administration of justice committed to them, and the result is, I think, appreciated by the public. Any effort that can be made by this House to strengthen the hands of the judges so as to enable them to take away this centralising policy of bringing everything down to Brisbane, and to carry cheap justice amongst those persons who do not happen to reside in the metropolis, must necessarily have our support, and for that reason we may fairly give such support to this Bill as will encourage the Government and the hon. gentleman in charge of it; and if there are any errors in it let them be corrected. I have heard a good many arguments to-day in reference to the details of this Bill, which might have been used against every Bill that has been brought into the House this session. All the difficulties that have been raised with reference to giving the judges power to go over different

portions of the colony, can be remedied by adding about ten words to the Bill. There are a few errors in it which, by a change in the policy of the district courts law, naturally will creep into every Bill of the kind, and I do not say they cannot be altered. I think the clauses of the Bill can be very easily worked into shape. I will take one alone, that relating to pensions. That has been admitted by, I think, all hon. members as a very necessary thing, because the district court judges are not like the Supreme Court judges. They have no pensions, and we have excluded them from the superannuation clauses of the Civil Service Act, so that really we must do something. It is necessary at the commencement to form a good groundwork in this Bill, so that district court judges, after serving a long time, may have some means of getting a livelihood—so that we shall not turn them out to live on the charity of the State. There, I say, is groundwork for the second reading of the Bill. But apart from that, clause 39, I think, is a wise one. At Gympie the other day a man, a Civil servant, I believe, contracted a debt of over £30. He had lived at Gympie for five or six months; the parties sued him, and when the case came on the judge said: "I am very sorry indeed, but I cannot give you a verdict; the defendant is not a resident here." That being so, there was no power in the district court to give a verdict; and the judge himself suggested from the bench that it would be a very wise thing to alter the law so as to give persons an opportunity of getting judgment where the debt is contracted. Taking that clause alone, I say it forms the groundwork for necessary legislation. Of course, on the second reading of a Bill it is very difficult to go through all the clauses, so I shall take the clauses of this measure in sections. The provision which enables district court judges to sit in chambers is, in my opinion, a very wise one. I think it can be so moulded into shape that we shall be able to get good work out of the district court judges sitting in chambers, by enabling them to administer justice on the spot and quickly. The section respecting judgment summonses has the commendation of everybody. I have heard it said that there is a lot of scissors and paste about it, but I know a good many other Bills introduced into this House, in which scissors and paste were required to be brought into use, and it is the duty of this House to see that such Bills are put into such a form that they can be understood. I think there is groundwork for legislation in that section of the Bill, and if it is necessary to sit here until Christmas for the purpose of doing our duty, I am prepared to do so. I do not think we should run away simply because it is now September. There is an outcry in the outside districts that the administration of justice is too costly, and I can assure hon. members that it is too costly in the Supreme Court. I know a case in which I myself was concerned the other day, in which the expenses for a verdict of £10 have run up to between £500 and £600. When I know that such things exist, I feel that it is my duty to the country in which I have lived so long to try and remedy that state of affairs. Of course we must begin at the bottom of the ladder. In all matters of legal reform there are great difficulties to face, but we must face those difficulties, and try if we cannot out of this measure bring about something that will remove the unsatisfactory state of affairs I have spoken of in regard to costs. I know that since that time three or four matters, involving very nearly as large pecuniary issues, have been tried by the district court even in my own town, and those matters were all settled in about a week from the time of their initiation, to the entire satisfaction of the suitors, at an expense of about £50. When we know these things, we must endeavour to bring the law so as to operate in the same way throughout the colony, if we desire to benefit not only those persons who can afford to come to Brisbane, but also those persons in the country districts who have not the means of obtaining that assistance which people can get down here. Taking it altogether, the evident intention of the Bill, from beginning to end, is good. I can see no objection whatever against allowing attachment for goods or providing means for getting speedy judgment. You cannot get that now in the district court, and you cannot get it summarily. At present it is all very well for suitors down here, but in the country districts the district court sits every four months, and supposing a man has a debt of £40, he has necessarily to go into the Supreme Court, and if the other party likes, he can prolong the proceedings indefinitely. I know actions that were initiated in the Supreme Court last January, and, although the lawyers concerned have done their best to push them on, they are hardly beyond the first stage yet. The machinery in the Supreme Court, no doubt, in its inception is remarkably good; but it runs slowly and it works costly; and in a scattered colony like this, the object of all interested in its welfare should be to try and bring the machinery to the people, and not the people to the machinery. I think that may be done to a great extent by this Bill. I see no difficulty whatever arising from the extension of the jurisdiction of these courts to £500; but I can see a great lot of good arising from it, because it will enable persons to bring actions in the districts where they reside. There the parties and the circumstances are known. The people are acquainted with their mode of living, and are experts in the particular branch respecting which the cases may be brought. There may be objections against it: but looking at the question as a whole, and also viewing the admirable manner in which the district court judges have conducted their work for many years, I look upon it that by this extension of their powers the colony will be a gainer. Of course I must say that I see fundamental objections as to whether certain judges, who are under the influence of the Executive, should have this extended jurisdiction. There is no doubt that the Supreme Court is a remarkably good institution, and that to a large extent is because of the independence of the judges; but district court judges have, I believe, shown quite as much independence in their work, and more honour to them, considering that their appointments are political, and they may be removed by the Ministry for the time being.

The MINISTER FOR MINES AND WORKS (Hon. J. M. Macrossan): Appointments to the Supreme Court bench are political appointments.

Mr. TOZER: They are political appointments; but when once a judge is appointed he is quite independent of parties. I am endeavouring, in my observations, to treat the matter fairly from both sides, and I can see that there may be some difficulty, for the reason I have mentioned, in extending the jurisdiction of the district court; but the district court judges have acted so well that I think we may fairly trust them, as we have already done under the Gold Fields Act, with an extension of jurisdiction. I am certain that if we do it will reduce legal costs in this colony by at least 80 per cent. I am certain that in the majority of actions tried in the district court up to £200, and up to £500 under the Gold Fields Act, the total costs have not averaged £30. What they would have averaged in the

Supreme Court I should be sorry to say. If you look at the question of real justice being done between litigants, I contend that you will find that as much real justice has been done by the district court as by the Supreme Court. Those are the reasons which will induce me to support the second reading of the Bill, though I must say that it has not been carefully drawn, and that its language shows signs of haste. That must be remedied. The mention of these defects will, I hope, induce the law officers of the Crown to look carefully into the matter; and I trust the Government will be prepared in committee to meet the objections raised by members on this side of the House. Their objections were raised mostly against the language of the measure, while my observations have been directed to the intention of the Bill.

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

The committal of the Bill was made an Order of the Day for to-morrow.

SUPREME COURT BILL.

COMMITTEE.

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

Preamble postponed.

On clause 1, as follows:—

"This Act shall, so far as is consistent with the tenor thereof, be read and construed with and as an amendment of the Supreme Court Acts of 1867 and 1874, hereinafter called the principal Acts, and may be cited together with the principal Acts as the Supreme Court Acts, 1867 to 1889, and separately as the Supreme Court Act of 1889."

The HON. A. RUTLEDGE said the Supreme Court Acts of 1867 and 1874 should be formally cited by their proper titles separately, and not described in the abbreviated manner they were in the clause.

The PREMIER: I think that is a formal citation.

The HON. SIR S. W. GRIFFITH: No, it is not. The Acts must either be named by their short titles or by the titles that are read to the House when they are passed.

The PREMIER moved that the word "Acts" be omitted with the view of inserting the word "Act."

Amendment put and passed.

The PREMIER moved that the words "the Supreme Court Act of" be inserted in the same line before the figures "1874."

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

On clause 2, as follows:—

"This Act, except any provision thereof which is declared to take effect from and after the passing thereof, shall commence and come into operation on the day of one thousand eight hundred and ."

The PREMIER said he proposed to move in that clause, the insertion of the word "first" after "the" in the 3rd line, and the words "January" after "of," and "ninety" after "eight hundred and."

The HON. SIR S. W. GRIFFITH said he did not understand the object of the clause. Suppose the Bill did not come into operation on the 1st January, and a judge was appointed in the meantime, what would happen? Would he be a Northern judge, or not? It seemed he would be neither one thing or the other. Of course, some little time must elapse before the change was completed. The Bill might come into operation on its passing. He did not see anything particular to be gained by fixing it at a future date.

The PREMIER said he took no exception to the objection of the hon. gentleman. Perhaps it would be better if the Act came into operation after its passing. After passing the Act did not mean almost immediately.

The HON. SIR S. W. GRIFFITH said he had simply asked for information. He knew it was a difficult subject. Whenever the Act came into operation there would be a lapse of a few days, during which the change would have to be made. The officers of the court could not be at both places at once. He did not see how they could get over the difficulty, unless they opened the offices at one place before closing the old offices. When the court was opened at Townsville there must be an officer to issue writs. The registrar might be at Townsville on the 1st January, and his clerk at Bowen until the 31st December.

The PREMIER said perhaps his own suggestion was the best. The Act would then take effect from the 1st January in order to give time to make the necessary preparations. It seemed to him there must necessarily be a break of continuity, although the Bill said the offices should be started at once. He thought it better to make it the 1st January to allow all necessary preparations to be made.

The HON. A. RUTLEDGE said he agreed that it would be an advantage to postpone the operation of the Act until the 1st January. In carrying out changes of that sort, a number of preliminary arrangements had to be made, and it was undesirable that there should be a sudden wrench in the existing state of affairs. Circuit courts were now in operation in the North, and provision should be made for the Act coming into operation on the 1st January.

Mr. SMITH said the difficulty could all be got over if the court was to remain where it now was. He did not see the slightest necessity for making any difficulty on such a matter. He saw no advantage in having the court removed to Townsville, and when the time came he proposed to move an amendment that it should be held at Bowen, and not Townsville. If the hon. gentleman accepted that amendment, all difficulty would be got over.

The PREMIER moved the insertion of the word "first" after "the" in the 3rd line of the clause.

Amendment agreed to.

The PREMIER moved the insertion of the word "January" after "of" in the same line.

Amendment agreed to.

On the motion of the PREMIER, the clause was further amended by the insertion of the word "ninety" after the word "and" in the last line.

Clause, as amended, put and passed.

On clause 3, as follows:—

"In the construction of this Act, unless there is anything in the subject or context repugnant thereto, the several words and expressions hereinafter mentioned shall have and include the meaning following, that is to say—

'The court' shall mean the Supreme Court of Queensland;

'The former Northern Judge' shall mean the Northern judge for the time being appointed under the provisions of the Supreme Court Act of 1874;

'The Northern District' shall mean the district which has, at the commencement of this Act, been assigned to the former Northern judge under the provisions of the Supreme Court Act of 1874, or such district as may from time to time be assigned by the Governor in Council as and to be the Northern district;

'The Northern Court' shall mean the court holden within the Northern district;

'Rules of court' shall include forms."

The HON. SIR S. W. GRIFFITH said he had given notice of some amendments in the Bill, designed to give effect to its intentions. He proposed some amendments of the terms used, as his attention had at various times been directed to difficulties arising under the former Act, in consequence of the inaccurate use of words. It must be remembered that the court in the North was the Supreme Court of Queensland, and not a distinct court. He thought it was inaccurate to say "The Northern court shall mean the court holden within the Northern district," and the expression he proposed to substitute for that was—

The Northern Court shall mean the branch of the Supreme Court holden before the Northern judges as herein provided.

The subsequent provisions of the Bill related to what the Northern judges were to do, and where they were to hold their court. They were to carry out the provisions of the Supreme Court Act of 1867 at Townsville, but theirs would not be a distinct court, but a branch of the Supreme Court of Queensland. If difficulties had not already occurred in consequence, there had at any rate been long argument about the phraseology used in the present Act, and he thought it better to move the definition of "the Northern Court" as he had suggested. A verbal amendment was, first of all, necessary at the end of the 14th line, as there were Northern districts for the purposes of the District Courts Act, the Real Property Act, and for many other purposes. The words "for the purposes of this Act" should be inserted after the word district at the end of the 14th line.

Amendment agreed to.

The PREMIER said that, with regard to the hon. gentleman's amendment in which the word "branch" was used, he would like the hon. gentleman to enlighten him as to the exact meaning of the word.

The HON. SIR S. W. GRIFFITH said he had had some difficulty in deciding upon the proper words to use. The principal Act said that the Supreme Court should be holden at Brisbane, and the Act of 1874 said that one of the judges should reside at Bowen and be called the Northern judge. It did not provide for a Northern Supreme Court, but for a judge of the Supreme Court to exercise certain powers at Bowen. The scheme of the Bill was not to create a Northern Supreme Court, and if the words were used they must define what they meant by them. If they said it was to be a court to be holden in the Northern district, that indicated something different from the Supreme Court; but it was not. It was the same court, the jurisdiction of the court being exercised by Northern judges. The words were only used in the 12th, 13th, and 14th sections. The 12th section referred to the jurisdiction of "the Northern court," and he thought that a convenient term, and had adopted it; but the present definition of "the Northern court" would not do. The definition he had proposed was, he thought, the best one to use.

The PREMIER: How would it do to say "the court holden before the judges of the Supreme Court within the Northern district?"

The HON. SIR S. W. GRIFFITH said the 9th section gave a definition of the "Northern judges," but the difficulty was to describe the Northern court. He had deliberated a good deal before he adopted the phraseology of his proposed amendment, and he did not think any terms could be found to express what was meant more clearly. The seat of the Supreme Court was at Brisbane, and it was intended that a branch of it should be holden at Townsville.

The HON. C. POWERS said he would suggest that the words "branch of the" might be omitted and the definition would then be "the Supreme Court holden before the Northern judges as herein provided."

The HON. SIR S. W. GRIFFITH said the objection to that would be that it might be taken to be another Supreme Court when it was not. They were all judges of the one court.

The PREMIER: A "portion" or "part" would be better than the term "branch."

The HON. SIR S. W. GRIFFITH said that he moved as an amendment to omit the words in line 15, "Court holden within the Northern district," with the view of inserting the words "branch of the Supreme Court holden before the Northern judges as herein provided." The expression used in his proposed amendment was taken from section 7 of the Supreme Court Act of 1874 which said:—

"Subject to the provisions in this Act contained the Supreme Court shall . . . . . be holden by and before three judges thereof."

Therefore, the expression "holden before the Northern judges" seemed to be correct. It was an important thing in a Bill of that kind to keep the same phraseology. With respect to the word "branch," it had occurred to him, during the adjournment for tea, that the word "division" might be used as in the Supreme Court of Judicature, where there were three divisions—the Queen's Bench, the Court of Chancery, and the Probate and Divorce divisions; but if they were to adopt that word they would have to define what a division was, as was done in the Judicature Act. He did not think any misunderstanding could arise as to the meaning of the expression "branch of the Supreme Court," and, on the whole the word "branch" expressed exactly what was meant. He wished the Government to understand that he was trying to assist them in framing the Bill, so that it would not lead to trouble afterwards.

The HON. C. POWERS said that if the leader of the Opposition would look at clause 21 of the Supreme Court Act of 1874, he would find it stated:—

"Subject to the provisions of this Act the court holden before the Northern judge shall, so far as may be necessary, be deemed to be the Supreme Court of Queensland."

He considered that to make it uniform with that clause it would be better to omit the words "branch of the Supreme," and let the clause read "court holden before the Northern judges as herein provided." The word "branch" was unnecessary.

The HON. SIR S. W. GRIFFITH, said he did not think they should take the Act of 1874 as an authority. Those clauses were his own work, but he had no reason to be very proud of them. When he drafted them he was not a member of the Ministry, but a private member sitting on the Government side. Those clauses had been drafted rather hurriedly, and he had since seen many things to be altered. The words "deemed to be" were used in many Acts of Parliament, when anything was not to be taken according to its natural signification. The clause referred to said "shall be deemed to be

the Supreme Court of Queensland." That court was not the Supreme Court of Queensland, but it was to be treated for certain purposes as if it was. He did not think any argument could be drawn from the wording of that clause. The expression "branch of the court" was not a new one.

The HON. C. POWERS said the Supreme Court Act of 1867 said :—

"The said Supreme Court shall continue to be holden in Brisbane, and to be a court of record, and shall be the Supreme Court for Queensland and its dependencies."

The court was still the Supreme Court, although it might only be a branch of it. It might be advisable to insert the word "division."

The HON. SIR S. W. GRIFFITH said that if the word "division" was used, it would be necessary to put in a clause to the effect that there shall be two divisions of the Supreme Court, one holden at Brisbane, and the other at Townsville. His amendment was framed to make as little change as possible in the phraseology of the Bill, which had been drawn obviously with very great care. The Supreme Court being now defined as being held at Brisbane, the words "branch of" most accurately expressed what was intended. It was in one sense the Supreme Court, but it was not the whole of the Supreme Court. The expression was one not uncommon in dealing with similar measures.

The HON. A. RUTLEDGE said there was an obvious reason why the words "branch of" should not be omitted. Supreme Court meant the Supreme Court of Queensland, while the words "branch of" indicated not the Supreme Court of Queensland, but the Supreme Court held before the Northern judges—referring to a part of the whole. The two things were not synonymous. He saw no difficulty in the use of the word "branch." A branch was of exactly the same substance and quality as the tree itself.

The MINISTER FOR MINES AND WORKS (Hon. J. M. Macrossan) : The whole is not the Southern court, but the judges as a whole.

The HON. A. RUTLEDGE said the Northern court was only a part of the whole ; therefore, there was no good reason why a part of the whole should not be called a branch of the whole.

The PREMIER said he thought it would meet the difficulty to say, that the Northern court shall mean the court holden within the Northern district.

Mr. TOZER said he could not see any difficulty about the word "branch." Port Philip stood in a somewhat similar position to New South Wales in 1841 as the Northern portion of Queensland stood now to the Southern portion ; and the words of the statute establishing the court at Port Philip, were distinctly that that part of the then colony of New South Wales was within the jurisdiction "of the branch of the Supreme Court at Port Philip." He was quoting from the Act itself.

The HON. SIR S. W. GRIFFITH said if the definition he proposed was accepted it would remove all possible cavil. A difficulty arose soon after the Northern Supreme Court judge was appointed, under the Act which gave the right to appeal in criminal cases. The words used in that Act were to the effect that the appeal should be heard by "the judges of the Supreme Court," and the court refused to proceed with the case because all the judges were not present, the Northern judge not being present. It was pointed out, but in vain, that in the Supreme Court of New South Wales, ever since it had been a court the same words were used, but yet appeals were heard by two, three, or four judges—whatever number happened to be present. But the court here refused to proceed unless all the judges were present. The result was that the legislature was immediately asked to alter the law so as to make it mean the judges of the Supreme Court ordinarily sitting in Brisbane. The court in question was undoubtedly a branch of the Supreme Court. It could not be said to be the Supreme Court, because it was only part of it. He did not know any other form of words that would express so accurately what they meant.

The HON. A. RUTLEDGE said it could not be anything but a branch of the Supreme Court, because the decisions of the Northern court were subject to appeal to the Full Court. While they were part of the Supreme Court they had an inferior jurisdiction collectively, their decisions being subject to appeal. There was no suggestion of any limitation of authority in calling the judges "a branch of the Supreme Court." They were clothed with all the powers and privileges of judges of the Supreme Court that were vested in the judges down here ; but still they had not the same extent of power, because their decisions were subject to appeal. There was no suggestion that they were an inferior tribunal.

The MINISTER FOR MINES AND WORKS said the hon. gentleman had previously said that they were an inferior tribunal. At any rate that would be the case if they accepted the amendment of the leader of the Opposition to insert the words "except jurisdiction on appeal from a decision of a judge of the Supreme Court, whether a Northern judge or not," in clause 10. As far as the question of appeal went, there was an appeal from the Supreme Court sitting in Brisbane to the higher court sitting in London, but that did not make the court here a branch of the Imperial court ; very far from it. The hon. gentleman was quite astray in his logic on that point. He did not like the word "branch" at all, and did not think it should be inserted, unless it was inserted in such a way as to make the Southern court a branch, as well as the Northern court ; that was, two branches of one court.

The HON. SIR S. W. GRIFFITH said the hon. gentleman's suggestion was entirely a matter of sentiment. Using the words "branch of the Supreme Court holden before the Northern judges" implied the necessary corollary that the other branch of the court sat in Brisbane. He could assure the hon. gentleman that there was no suggestion of any limitation of the authority of the Northern judges. That had never occurred to his mind for a moment. To make the clause perfectly logical they should say that there should be two branches or divisions of the Supreme Court, one to be held in Brisbane under the Act of 1867, and the other at Townsville before the Northern judges. If they used the word "division" it would require definition, but "branch" would not. So long as they did not lose sight of the substance in the form, he did not care what form was adopted. They should make no mistake about the substance that would give rise to questions afterwards.

The PREMIER said if the hon. gentleman did not press his amendment, an additional clause would be inserted by the Government to provide what the hon. gentleman wanted, namely that there should be two divisions of the Supreme Court, the Northern and the Southern, both of course being branches of the one Supreme Court.

The HON. SIR S. W. GRIFFITH said clause to that effect, if inserted at all, would com in after clause 8, and should provide that "ther shall be two divisions of the Supreme Court, one

holden at Brisbane as provided by the principal Acts and one holden before the Northern judges as herein provided." He did not see any objection to that, but it seemed to be more a matter of sentiment than anything else. What he had in his mind was the substance and not the form.

Mr. TOZER said he understood the proposal of the Government to mean that there was practically to be what he might call judicial separation?

The PREMIER: No.

Mr. TOZER said if there were to be two divisions of the Supreme Court, the one separate from the other, the only connection between them being that there should be an appeal from the Northern full court to the full court in Brisbane, that was, so far as he knew, without precedent in any of the other colonies.

The HON. SIR S. W. GRIFFITH said there was always some doubt in using a new term as to how it would affect other laws. The words "Northern court," as used in the Bill, only appeared in clauses 12, 13, and 14, and it was important to see in what sense they were used. The 12th clause provided that—

"All such matters and proceedings as would in Brisbane be proper to be heard and determined by the full court shall within the Northern district be heard and determined by both of the Northern judges sitting together."

provided also that—

"All decisions of the Northern court in any matters or proceedings which would in Brisbane properly belong to the full court, shall be subject to appeal to the full court."

The 13th clause stated where the court should sit. Those were the only clauses that would be affected, and he did not see why there should be any difficulty in reading the words "branch of the Supreme Court holden before the Northern judges as herein provided," for the words "Northern Court" where so used. He thought that form of words was less likely to conflict with any other Act.

Mr. TOZER said he thought the word "branch" was the proper one to use. He gathered that it was the intention of the Government to have a Supreme Court in the North quite distinct from the Supreme Court in the South, except that litigants in the North should have the right to appeal to the full court at Brisbane. If that was so, the word "branch" was the proper term, and no other would apply.

The HON. SIR S. W. GRIFFITH said, on reconsideration, he adhered to the amendment he had moved. If he was overruled he could not help it.

The HON. C. POWERS said he would like to know what was the hon. gentleman's great objection to the definition in the interpretation clause of the Bill. It really meant what it said—"the court holden within the Northern district," and wherever it applied he could not see any reference to the words "Northern court" that would not come within the interpretation. As to the objection to the word "division," the word "division" would cover everything the word "branch" would cover.

The HON. SIR S. W. GRIFFITH said he had pointed out before that the definition indicated that the Northern court was something different from the Supreme Court, whereas it was not. It was part of it.

The PREMIER: Then why not use the word "part?"

The HON. SIR S. W. GRIFFITH: Because it seemed to be inapt. He never heard that word used before in such a connection. They talked about a branch of the legislature, but that did not mean that the Assembly was inferior to the Legislative Council. He had seen various cases arise through uncertainties like that, and he wished to avoid them.

The MINISTER FOR MINES AND WORKS said he did not see where the difficulty existed, or how the Northern court could mean something different to the Supreme Court. The interpretation was that "the Northern court shall mean the court holden within the Northern district," and the word "court" meant "the Supreme Court of Queensland." He certainly did not like the word "branch," and sooner than insert it he would leave the interpretation clause as it stood. He had no objection to inserting the word "division."

The HON. A. RUTLEDGE said the word "court" was defined as "the Supreme Court of Queensland," and when they came to the "Northern court," they said it should mean "the court holden in the Northern district." Now, in section 8, they found that the Supreme Court of Queensland consisted of five judges, and it followed, therefore, that the Northern court meant the Supreme Court of Queensland consisting of five judges, and holden in the Northern district. That was the way the clauses had to be read to get at the full and actual interpretation.

The PREMIER: Read the 9th clause.

The HON. A. RUTLEDGE said the word "court" had now a technical meaning. It meant the Supreme Court of Queensland, consisting of five judges, and how could they say that the Northern court was a court consisting of five judges and holden in the Northern district. He thought there would be good objection to using the word "division," because they had passed numbers of Acts in years gone by relating to the Supreme Court, and it was hard to see how the interpretation of some of those statutes might be affected by speaking of "divisions."

The HON. SIR S. W. GRIFFITH said he could not throw any more light on the subject. He did not like to use the word "division." It was too dangerous, as he could not say what effect it might have upon other provisions of the law. He had seen during the last fifteen years an indication sometimes of a desire to treat the Northern judges as if they did not belong to the Supreme Court at all, and he did not believe in that. He maintained they had an equal status to the judges of the South, and he was anxious to use no words to give rise to the idea that they were not on the same footing. He was quite certain the word "branch" would not do that. The Government were responsible for the Bill, but he hoped no question would arise under it that would require decision or involve suitors in expense. He was quite certain that no question could arise if the word "branch" was used.

The MINISTER FOR MINES AND WORKS said perhaps the hon. gentleman would insert a clause saying that there should be two branches of the Supreme Court of Queensland, one of which should be holden in Brisbane, and another at Townsville.

The HON. SIR S. W. GRIFFITH said he had pointed out that that would be necessary if they used the word "division." It was dangerous to do a thing like that without going over all the Acts relating to the Supreme Court, and seeing what effect it might have. He was not prepared to do that at a moment's notice. Hon. gentlemen who had followed the history of the Judicature Act passed in England in 1875 would know that for many years amendments had to be made in it, altering certain words that had been used in it which were erroneous. He thought there were eight or nine different

Acts amending the Judicature Act. With that example before them, it was necessary to be extremely careful not to use wrong words when they were establishing a new jurisdiction.

The MINISTER FOR MINES AND WORKS: Would that not probably apply to using the word "branch."

The HON. SIR S. W. GRIFFITH said he did not think any doubt could possibly arise if that word were used.

The MINISTER FOR MINES AND WORKS said the hon. gentleman told them that there had been indications during the past fifteen years of a desire to put the Northern judges on a lower legal status than the Southern judges. Would the use of the word "branch" not continue that? He was afraid it would. That was just the fear he had, and for that reason he would prefer the definition as it stood.

The HON. SIR S. W. GRIFFITH said it seemed to him the use of the word "branch" would have the very contrary effect. All branches of the court were equal, unless one was given an inferior status to another. The word conveyed the idea of a part of the Supreme Court of Queensland.

The PREMIER: Why not put it in that way?

The HON. SIR S. W. GRIFFITH said it meant that.

The PREMIER said a "branch" could not possibly bear that definition. To have a "branch" there must be a parent trunk, and it was quite evident there could not be two "branches" without a parent trunk. Where was the parent trunk in this case? Was it the Supreme Court in William street?

The HON. SIR S. W. GRIFFITH said the hon. gentleman's argument was that the whole was greater than a part.

The PREMIER: Yes.

The HON. SIR S. W. GRIFFITH said that five judges were greater than any two of them. The parent trunk was the Supreme Court of Queensland constituted of five judges.

The HON. A. RUTLEDGE said the Premier was too fond of the tree illustration of the matter. There were different kinds of trees, such as the *Araucaria Cookii* and the *Araucaria excelsa* which had one stem going right up with subsidiary branches of a minor character, but there were other trees that went up to a certain point in one trunk, and then threw out branches of about equal proportions on all sides, and it was impossible to say which was the parent trunk above that point. The trunk of the judicial tree in this case was composed of the five judges of the Supreme Court, and the judges sitting in Brisbane formed one branch, while those to sit at Townsville would form another.

The MINISTER FOR MINES AND WORKS said that the real stem in this case was the Parliament of Queensland, and the Southern and Northern judges were simply branches from that stem. They would get over the difficulty if the hon. gentleman would accept the suggestion he had thrown out about defining the two branches. What greater danger would there be in defining both branches than in saying there was one branch?

The HON. SIR S. W. GRIFFITH said he had endeavoured to make that clear. If he was thoroughly familiar at the moment with all the provisions of all the Acts relating to the Supreme Court, he might be able to answer the question. There might be no danger in doing what was suggested, and he did not see any at present; but it might prove to be most serious. They might, by using words like that, be interfering with the construction of a number of provisions relating to the Supreme Court. He was not prepared to take such a risk. It was most important that they should not use expressions the full effect of which they did not know. He could say no more, he had given his advice, and if the definition he proposed was accepted it would in no way lessen the status of the Northern court, nor would it give rise to any doubts as to the meaning of the term "Northern court."

Mr. SMITH said that the discussion so far had shown that it was very inexpedient to introduce a Bill of that kind towards the end of a session, and the best thing the Government could do was to abandon it and bring it in next session, after giving the lawyers plenty of time to pull it to pieces and make it a really good measure. If it was forced through the House in the way it was being forced, it would be very imperfect, and would lead to no end of litigation and trouble, and the public would be quite nonplussed by it. It was quite refreshing to hear the leader of the Opposition and the Minister for Mines and Works coolly discussing the insertion of a clause to wipe out the constituency he represented in one act. The Minister for Mines and Works suggested that the leader of the Opposition should draft a clause, defining the two branches—one being in Brisbane of course, and the other being in Townsville forsooth. He was there to oppose the removal of the Northern branch of the court from Bowen to Townsville, and he was sure he would have the majority of the Committee with him, in insisting that the court should remain at Bowen, when there was no earthly reason for removing it. He trusted, when the time came, he should be able to show good reasons and sound arguments for having the court at Bowen. In the meantime he advised the Government to withdraw the measure for the present, and bring it in at the beginning of next session.

The MINISTER FOR MINES AND WORKS said he had understood that the hon. member represented the people of Bowen, but it now appeared that he represented Mr. Justice Cooper. He thought that when there was so much difficulty about the meaning of the word "branch," it was better for them to stick to the Bill as it stood.

The HON. SIR S. W. GRIFFITH said that the Government would do, of course, what they pleased. He had made a suggestion which, if accepted, would remove all future difficulty in the matter. If the Government were prepared to let the doubt remain, theirs would be the responsibility and not his.

Amendment put and negatived; and clause, as amended, put and passed.

On clause 4, as follows:—

"The Acts specified in the schedule to this Act are hereby repealed to the extent indicated in the third column to that schedule, and also any other enactments inconsistent with this Act:

"Provided that—

(1) This repeal shall not extend to or affect the past operation of any enactment repealed by this Act, or anything lawfully done or suffered under any enactment repealed by this Act, or any appellate jurisdiction vested in the full court at Brisbane under or by virtue of any enactment repealed by this Act;

(2) In all matters and proceedings which have been fully heard, and in which judgment has not been given, or having been given has not been perfected at the commencement of this Act, such judgment or order may be given, made, and perfected respectively after the commencement of this Act in the name of the

same court, and by the same judge, and generally in the same manner in all respects as if this Act had not passed, and the same shall take effect to all intents and purposes as if the same had been duly perfected before the commencement of this Act, and every judgment or order duly perfected before the commencement of this Act may, subject to all rights of appeal, be executed and enforced in the same manner as if this Act had not passed;

(3) Without prejudice to the provisions in the last preceding subsection contained, all matters and proceedings initiated at the commencement of this Act shall be continued and concluded after the commencement of this Act as far as practicable, according to the provisions of this Act, and subject thereto in accordance with the provisions of the repealed enactments, which shall for that purpose be deemed to continue in force notwithstanding the repeal thereof."

Mr. SMITH said he would like to know how the passing of that clause would affect the schedule of the Bill. If that clause was carried it appeared to him that the clauses of the Act of 1874 fixing the Northern branch of the Supreme Court at Bowen, and providing for the carrying on of the work of the court at Bowen, would be repealed. He wished to know whether the passing of the clause would affect the continuance of the court at Bowen.

The HON. C. POWERS said that clause 4 was of course intended to repeal the sections of the Supreme Court Act of 1874 which provided that the judge should reside at Bowen. The clauses specified in the schedule referred to in that clause were 15, 16, and 19 of the Act of 1874, and clause 15 provided that the Northern judge should reside at Bowen, while clause 16 specified what his jurisdiction should be. The Bill was intended to provide for the removal of the Northern judge from Bowen to Townsville. Clause 4 provided for the repeal of those sections, but the rest of the question was left open.

Mr. SMITH said he was not quite clear whether, if that clause were carried, the seat of the Northern Supreme Court would be removed to Townsville. He wanted to be sure about that point. If it had that effect he would move the omission of the clause. If it would not have the effect of removing the court to Townsville he did not want to make any difficulty about it; but one of the clauses to be repealed by that clause was clause 15 of the Act of 1874, which said:—

"One of the judges of the Supreme Court shall reside at Bowen, and shall be called the Northern judge."

Could the third part of the schedule be amended when they came to the schedule?

The MINISTER FOR MINES AND WORKS: You can move an amendment in clause 9.

The PREMIER said the intention of the Bill was to remove the court to Townsville. Clause 13 was quite clear on that point, as it stated:—

"The Northern court shall, without prejudice to the jurisdiction, powers, and authority exercisable in any circuit court within the Northern district, be established and holden at Townsville."

The hon. member need be under no misapprehension with regard to the intention of the Bill, which was to remove the court from Bowen to Townsville.

The HON. A. RUTLEDGE said he did not think the hon. member for Bowen would facilitate matters by raising the question upon that clause. Undoubtedly that clause provided for the repeal of the clauses mentioned in the schedule, but it would be better for the hon. member to engage in the battle upon the clause which stated that the removal was to take place.

Mr. SMITH said if that clause would have the effect which the Premier said it would have, he would move that the clause be negatived. He had been under the impression that, even if that clause were passed, the schedule could be amended afterwards.

The PREMIER said it might be as well to take the discussion upon the removal of the court from Bowen to Townsville at the very earliest opportunity, and settle the question. The 13th clause was the one upon which the discussion should arise, but if the hon. member for Bowen thought fit to discuss the subject upon clause 4 he might do so.

Mr. DRAKE said as he understood the hon. member for Bowen, the hon. gentleman wanted to know whether he would be prejudiced in his attempt to prevent the removal of the court to Townsville if he allowed that clause to pass. Of course they all understood that it was the intention of the Government to remove the court to Townsville, and the hon. member wanted to know whether he would be conceding that point by allowing the clause to go. He (Mr. Drake) had not a copy of the Supreme Court Act by him, but he thought the hon. gentleman was not prejudicing his right to prevent the removal of the court from Bowen. It was quite competent for him, when they came to the schedule, to move an amendment in the schedule; but the proper time for discussing the question was when they came to clause 9.

Clause put and passed.

On clause 5, as follows:—

"In section thirty-nine of the Supreme Court Act of 1867 the words 'the Governor in Council' shall be substituted for the words 'the judge or judges for the time being of the said court,' and the provision contained in that section prohibiting the creation of any new office in the court unless the judge or judges thereof shall certify by writing under his or their hand or hands to the Governor that such new office is necessary is hereby repealed."

The HON. SIR S. W. GRIFFITH said he wondered if the Government were aware of the extraordinary inconsistency of their action in proposing that clause. They had that day received a message from the Governor announcing his assent to the Civil Service Bill, the foundation of which was that the Government proclaimed their incompetence to determine what officers should be employed in any branch of the Government service, and they had therefore agreed to appoint three commissioners to perform that function for the Government. But with respect to the Supreme Court, the Government now proposed that they should be the sole judges of who were to be employed in that department, although in all the departments with which the Government came into immediate contact they deemed they were incompetent to make appointments. It had always been recognised that it was important to keep the judicial distinct from the Executive branch of the Government.

Mr. O'SULLIVAN: We shall have to appoint another board to appoint the judges.

The HON. SIR S. W. GRIFFITH said the hon. member for Stanley was right. They would have to appoint a board to appoint their judges, then they would have to appoint another board to elect members of Parliament, and they would have to appoint still another board to supervise the different boards. The fact was the whole thing was an absurdity. There was a department of a special character, in which the work was of a confidential character, and which should be less subjected to political influence than any other, seeing it concerned the administration of justice. Yet the Government proposed to take the power of recommendation of new appointments in that department out of the hands

of those who understood most about it, and were going to take it to themselves, whilst in every other branch of the Government service that power was taken out of their hands. He did not think the Government were aware of the extraordinary inconsistency they were committing.

The MINISTER FOR MINES AND WORKS: There is no inconsistency whatever.

The HON. SIR S. W. GRIFFITH said he had no doubt there was not, in the view of the Minister for Mines and Works, who no doubt believed that the Government should supervise the judges. He (Sir S. W. Griffith) did not. He recognised the wisdom of the older political theory as to the importance of keeping the different branches of the Government distinct. It was actually proposed that the Government should determine what officers were necessary in the Supreme Court, while a law had just been passed declaring that in no other branch of the Civil Service should they exercise any such power. If the Government wished to be consistent they should give the power to the board in the case of the Supreme Court as well as the other departments—if the court was not competent to manage its own department, as they were thought to be in almost every other part of the world. Certainly the Supreme Court should say how many officers were wanted in the Supreme Court. The Government, while admitting that they were incompetent to appoint officers in every other branch of the Civil Service, asserted that they alone knew what officers were necessary in the Supreme Court. The proposition was both illogical and absurd, and it had only been actuated by a temporary irritation of the Government against the judges of the Supreme Court, which was a most unworthy motive to actuate the legislature in passing Acts of Parliament. He could understand a Government, not particularly competent, being actuated by such motives, but it was surprising that the legislature should be seriously asked to legislate upon such unworthy motives. He (Sir S. W. Griffith) believed he made a mistake when he last spoke on the Bill, in referring to the clause of the Supreme Court Act which it was proposed to amend. He was under the impression that it had been lost sight of for some years, but he had been informed since that there was an appointment made a few years since of a deputy-registrar. It was made, in the first instance, under forgetfulness, without the recommendation of the judges, but the omission was corrected, the judges made the recommendation, and the officer was re-appointed. That was very probable; it would be the rational way of getting out of the difficulty. In the present instance the Government, finding they had made a mistake, could easily have made the appointment afresh after getting the necessary recommendation from the judges. But they could not gain any credit to themselves by what they were doing, and fortunately he thought they would not succeed in interfering with the administration of justice.

The POSTMASTER-GENERAL (Hon. J. Donaldson): We do not wish to do so.

The HON. SIR S. W. GRIFFITH said he should certainly like to know why the judges of the Supreme Court were less competent to advise the Government as to what officers were necessary in their department, than the Railway Commissioners were in their department, or the Civil Service Commissioners in every other department of the Public Service?

The PREMIER said he could quite understand a gentleman, who had to appear before the judges every day, and was perhaps rather afraid of the comments they might make upon him, making the speech just made; but he could not understand a gentleman, whether lawyer or layman, holding the position of leader of the Opposition doing anything of the kind. The hon. gentleman said the Government were taking up quite a different position with regard to certain appointments in the Supreme Court to that which they had taken up under the Civil Service Act. But the hon. gentleman was quite in error, and he knew it. He forgot that every appointment under the Civil Service Act was to be made by the Governor in Council.

The HON. SIR S. W. GRIFFITH: On the recommendation of the board.

The PREMIER: And the Government are responsible to the House for any appointment so made.

The HON. SIR S. W. GRIFFITH: So they are under the Supreme Court Act.

The PREMIER said that, according to the law laid down by the judges, the Governor in Council had nothing to do with appointments made in the Supreme Court.

The HON. SIR S. W. GRIFFITH: Oh, no.

The PREMIER: What was the so-called quarrel between the judges and the Government? It was represented to the Government, and there was no getting away from the fact, for it had been admitted by the Chief Justice himself and Mr. Justice Harding, that the work was being inefficiently done from want of officers in the department of the registrar of the court; and the Government appointed, as he believed they had a perfect right to do, a clerk as assistant to the registrar. What happened then? The Chief Justice, from his seat on the bench, after the appointment had been made a month or six weeks—and he supposed his colleagues also—affected to deny their knowledge of the existence of that officer, and threatened the Minister of Justice and his colleagues with all sorts of pains and penalties—which he did not think they were able to inflict. At any rate, they were threatened. Ministers were responsible to the House, while the judges were not, and it would be very much better if those appointments should be in the hands of a responsible Minister.

The HON. SIR S. W. GRIFFITH: So they are now.

The PREMIER said the judges said not. They had done more than that. They not only made the action of the taxing master in that particular case illegal, but all his previous actions during the six weeks he had held office. Did the hon. gentleman deny that?

The HON. SIR S. W. GRIFFITH: They decided upon what they believed to be the law.

The PREMIER: I ask the hon. gentleman if the statement I have made is not correct?

The HON. SIR S. W. GRIFFITH: That is the effect of their decision.

The PREMIER said the effect of their decision might have been altogether prevented if the Chief Justice had communicated with the Government on the subject, if he had had any doubt as to the legality of the appointment. If the Chief Justice had done that—knowing as he must have done that the appointment had been not only made but gazetted—all that trouble would have been saved. It was only right and proper that a clause such as that should be inserted in a Bill amending the Supreme Court Act. If an improper appointment were made by a Minister, there were always, fortunately, enough members on both sides of the House to call attention to it. If a judge was attacked in the House he would always, so long as there were solicitors and barristers present, have plenty of defenders, whereas a Minister had only himself and his colleagues to defend him. The hon. gentleman, whilst sneering at the

Ministry for their action, had not pointed out any objection to the passing of such a clause as that, which was simply for the purpose of putting the appointment in question into the same position that an appointment made by the Civil Service Board would be.

The HON. SIR S. W. GRIFFITH: No; on the contrary.

The PREMIER said the Government were as responsible to that House for that appointment as they would be for any appointment recommended by the board. That was one of the great safeguards of the Civil Service Act—that the Government were responsible for every appointment made on the recommendation of the board. He had stated fully and fairly and without prejudice what had happened between the Government and the judges in that case. He had pointed out that the appointment was made at the desire of the judges; that about six weeks after the appointment the Chief Justice said he never knew of the appointment, that he did not know the officer existed—that there was such a person alive, and expressed his surprise, and went into a condemnation of the appointment. He had also pointed out that the judge admitted the necessity of the appointment, and that weeks after the appointment was made he declared all the acts of the officer so appointed to be null and void. Those were facts that could not be disputed; and he said that when the Ministry were informed not only that their acts were illegal, but that they were likely to be subjected to some punishment, which the Chief Justice said he had power to inflict upon them, it was time that the Government, whatever Government it might be, should have their rights clearly defined. The public had called for the appointment of such an officer as a taxing master in the Supreme Court Office; it was an absolute necessity, and the Government would have been failing in their duty to the country if they had not made that appointment—an appointment approved of by the Government, and concurred in by the judges. That was the position in which the Government stood. It had not been asserted by the judges that the gentleman appointed was an inefficient officer. He (the Premier) did not know him, had never seen him; but from what he had heard he believed he was a very suitable officer. Under the circumstances, he contended it was time that the Government, as the Executive Committee of the two branches of the legislature, should have some control over even some departments under the judges, but not for one moment to interfere with the administration of justice. No Government had ever asked, and he hoped never would ask, to interfere or attempt to interfere with the proper administration of justice; but there were people outside who had to be "put through the mill" by subordinate portions of the Supreme Court staff, and surely the outside public had a right to have a say so far as that portion of the staff was concerned. No one wanted to interfere with the administration of justice. The leader of the Opposition knew that perfectly well; but he (the Premier) and other hon. members knew that the outside public were taxed and looted by officers of the Supreme Court, and when they knew that, it was time for laymen to interfere in the matter. It was no secret, it was known to every lawyer in the Committee, that officers of the Supreme Court took the time for swearing affidavits after 4 o'clock, in order to extract fees from the public. A leading solicitor in town had told him this: That it was very much better for him and for his business to send up and give Mr. Bell a guinea after office hours to get his work done than to get it done outside; that work that it would take a fortnight to get through he could get done in a few hours if he gave Mr. Bell his fee after 4 o'clock, and other officers of the Supreme Court also. He had heard that not from one individual, but from two or three.

The POSTMASTER-GENERAL: It is known all over the town.

The PREMIER said the hon. gentleman said it was known all over the town. He was sure that if any solicitor was asked the question he would not deny it. That was a state of affairs that should not prevail. If Mr. Bell was so hard worked, he should be relieved of some of it; and he had been relieved of his work as taxing master, and very properly so. The hon. the leader of the Opposition had made out no case against the Government on the present occasion. The Government were actuated purely by a desire to do what the judges wished; what they had expressed their wish for in writing. He had a copy of a letter with him which would show that the judges on some occasions had not thought it improper for the Attorney-General, or the Minister of Justice rather, to move in a matter which concerned the officers whom they held directly under their control. This letter was addressed to the Minister of Justice by Mr. Bell, with regard to the action of Mr. Down, both those gentlemen being officers of the court, who, the judges asserted, were wholly and solely under their control, and in regard to whom they said they would allow no interference on the part of the Government or anybody else.

The HON. SIR S. W. GRIFFITH: I never heard such a suggestion made.

The PREMIER said the assertion was made by the Chief Justice. Had the hon. gentleman read the learned discourse delivered by His Honour from the bench, about a week or ten days ago?

The HON. SIR S. W. GRIFFITH: I was sitting listening.

The PREMIER said probably the hon. gentleman had not heard more than he wanted to hear.

The HON. SIR S. W. GRIFFITH: I only heard all that was said.

The PREMIER said he would read the letter which was written by the instruction of Mr. Justice Harding. He was very sorry to have to bring his name into the discussion at all.

"Queensland.

"Registrar's Office, Supreme Court,

"Brisbane, 13th April, 1889.

"SIR,

"I have the honour to inform you that His Honour Mr. Justice Harding has, on several occasions, complained of the way in which papers are sent to his chambers, and of what he considers great carelessness on the part of the officer whose duty it is to attend to that particular work. I have pointed out to His Honour the difficulty that often arises through a great press of work at the last moment on chamber days, and also that I have given the necessary instructions for greater care to be exercised. His Honour, however, thinks that the matter should be brought under your notice. I have the honour, therefore, to report accordingly.

"I have the honour to be, Sir,

"Your obedient servant,

"WM. BELL,

"Registrar."

The endorsements on that letter were as follow:—

"Who is this officer? Request explanation from him.

"A. J. T.

"13-4-89.

"The Registrar Supreme Court."

"S. C. L. O., 13-4-89.

"This refers to alleged neglect by Mr. Down, the deputy registrar.

"W. B."

Now, if the court thought fit to pass on the responsibility of looking after what they called their subordinates to the Minister of Justice, or the Attorney-General, as the case might be, how could they sustain the contention that those officers should not be interfered with by Ministers of the Crown or anybody else? The contention was not sustainable.

The HON. SIR S. W. GRIFFITH: Of course not.

The PREMIER: The hon. gentleman said, "of course not."

The HON. SIR S. W. GRIFFITH: I do not know anybody who asserts it.

The PREMIER said the judges asserted it, and that was the point which it was desired to make clear by the passing of that clause and the one following it.

The HON. SIR S. W. GRIFFITH: They have nothing to do with it.

The PREMIER said they had a great deal to do with it. The court said they would have no interference with their officers by the Government or anybody else. Did not the Chief Justice use the words "hands off; we will have no interference with our officers." Those were the words he used, and went on to say that if anyone attempted to interfere with them they would be condignly punished. Those clauses were put in, in order to prevent anything of that kind occurring in future.

The HON. A. RUTLEDGE said he was of opinion that the hon. gentleman entirely misapprehended the effect of a judgment given by the Chief Justice, when he set up his contention that the judges had no right, under the 39th clause of the Supreme Court Act of 1867, to select and appoint an officer who was to perform certain functions under the authority of the judges of the Supreme Court, and in the Supreme Court. The judges had in no way claimed the right of nominating any officer. They had not attempted in the slightest degree to assert that as a right vested in them by that clause. All that the judges had done was to interpret that section which said that such officers, in addition to those named in the clause, as might be thought necessary by the judges for the carrying out of the work of the Supreme Court, should be appointed. That section expressly stated that those officers should be nominated by the Governor in Council. The Governor in Council selected the individual who should be appointed, in addition to those specified in the clause; but the judges should notify to the Governor in Council that in their opinion such an officer was necessary. How on earth could that be said to be usurpation of the functions belonging to the Governor in Council? Surely the judges were in the best position to ascertain whether the work of the court could be carried on efficiently by the officers employed in the court, and surely it was not usurping when, in consequence of the peculiar facilities which they had for finding out that certain officers were necessary, they intimated to the Governor in Council that such and such officers were required. There was no need for the clause before them at all. What harm could there be in the judges intimating to the Attorney-General or Minister of Justice that in their opinion a taxing officer was necessary. None whatever. What he said was that the Governor in Council should not have appointed that officer. What the Minister of Justice should have done, if the judges had not brought it under his notice, and it had been brought under his notice in some other way that such an officer was necessary, was to have consulted the judges, and he had not the least doubt that if that hon. gentleman had gone to the judges and said, "Well, I think a taxing officer is necessary for carrying out the business of the court efficiently," they would at once have fallen in with the suggestion, and have sent the necessary notification, to enable the Governor in Council to take action. But when it was decided that such an officer was necessary, who that officer was to be was a matter that the judges had nothing to do with, and they had not claimed to have anything to do with it. So far from an individual who was found to be incompetent for discharging the duties of the office to which he had been appointed, being removed from the control of the Governor in Council, he denied that the judges had ever set up any such contention. The clause in the Supreme Court Act expressly empowered the Governor in Council, in the event of such an officer being found to be incompetent for the performance of his duties, to remove that officer. He would like to draw the attention of the hon. gentleman in charge of the Bill to the clause before them. He proposed to substitute for the words "the judge or judges for the time being of the said court," the words "the Governor in Council," and then the clause said:—

> "The provision contained in that section prohibiting the creation of any new office in the court, unless the judge or judges thereof shall certify by writing under his or their hand or hands to the Governor that such new office is necessary, is hereby repealed."

That was an inaccurate statement altogether. There was no statement in the 39th clause of the Supreme Court Act which said that the creation of an office was prohibited. Surely they ought to have something like accuracy in an Act of Parliament. The clause simply authorised the appointment by the Governor in Council of such other officers as the judges should certify were necessary. To make provision for repealing a clause which did not exist seemed ridiculous, and he had seen or heard no good reason why the clause was necessary. In regard to the other matters that the hon. gentleman mentioned, he was not going to enter into any argument concerning them. Very little could be said against what had been said by the leader of the Opposition. He did not think it was right that the name of any officer should be brought up, to his disadvantage or disparagement. Surely it could not be said that the clause had been found necessary in order to provide against some abuses said to have been discovered in connection with the Supreme Court offices. The hon. gentleman had not made his statements in such a way as to justify him in advancing any arguments in refutation of anything he might have said. The fact that certain people had said certain things was no argument to prove that the things alleged actually existed. He had directed his attention to the matter of fees when he was in office. What he did was to go to the Chief Justice and have a conversation with him about the allowing of fees for the swearing of affidavits, and if his colleagues had been of his opinion there would have been an arrangement made by which there would have been no fees allowed to be taken by judges' associates, or anyone else in the Supreme Court buildings. He was of opinion that that would have been a very good thing. He was sorry that the Hon. Premier had entered upon the subject, and had expressed himself in a way which was calculated to damage an officer who was of very high standing in the service, and who might be able to say a great deal to put a different complexion upon what had been stated. The judges had not claimed the right to nominate the officer who was to fill the position, and he should like the hon. gentleman to bear that in mind. He should certainly give the clause his most strenuous opposition.

The MINISTER FOR MINES AND WORKS said the position the hon. gentleman who had just spoken had taken up, was only what could be expected from a conservative lawyer, who was quite willing to maintain the power of the judges in the extreme case in which they had claimed that power. The position of the judges and the power which they claimed was very objectionable to the general public, and to members of that Committee, and Parliament would not much longer submit to it. Hon. members would recollect that when the hon. member for Burrum introduced a Bill, which was a scheme for legal reform, a great deal of discussion took place upon the question of costs in the Supreme Court, and the hon. gentleman made statements which were combated by some hon. members on the other side of the Committee, or, rather, which were looked upon with incredulity. There was such a general expression of dissatisfaction with the costs that were levied in the Supreme Court, that the hon. member for Rockhampton wished for a return showing the costs for a certain period. He dared say the hon. member for Charters Towers remembered that. Well, it was the question of costs that had led to all that trouble with the judges. The Ministry had no desire to provoke a conflict with the judges; they would rather avoid a conflict. Although they were quite willing to carry out the expressed will of that Committee in limiting the power claimed by the judges in that respect and reducing it to what it ought to be, still they did not wish to provoke a conflict on the question, or, in fact, on any question with the judges. The appointment of the taxing officer was made by the Executive in the interest of the public after consulting the judges.

Mr. TOZER: All of them?

The MINISTER FOR MINES AND WORKS said there were only two here and they were consulted; the third judge was at present in England. Now, where was the contention of the hon. member for Charters Towers?

The HON. A. RUTLEDGE: They forgot to sign a formal document.

The MINISTER FOR MINES AND WORKS said the judges did not sign any document, but they admitted the necessity of a taxing officer and wondered whether an officer of the necessary ability could be obtained. They did not claim the right to nominate the officer, but they claimed the power to dismiss him after he was appointed. He contended that that officer was appointed according to the law in spite of the judgment delivered by the Chief Justice. The appointment was not the creation of a new office, and that was where the difference of opinion came in. He was quite certain that the hon. member for Charters Towers could not maintain that it was the creation of a new office seeing that they had a taxing officer at the present time, and that the gentleman who was appointed was appointed to assist him to perform duties he was not able to perform. What was there wrong in connection with the appointment? In addition to the fact that the judges did not actually make a written recommendation to the Executive that the officer was necessary, they objected that the salary was not large enough; they thought that no competent man would accept the position at a salary of £400. Why should the taxing officer be a barrister? Was it necessary that he should be a barrister?

The HON. SIR S. W. GRIFFITH: The judge did not say he should be.

The PREMIER: Yes; he did.

The HON. SIR S. W. GRIFFITH: He said a solicitor of some practice.

The MINISTER FOR MINES AND WORKS: I have got the report of the judgment.

The HON. SIR S. W. GRIFFITH: I do not know what is in the report; but I am sure he did not say that.

The MINISTER FOR MINES AND WORKS: Does the hon. gentleman say the judge did not say that the taxing officer should be a barrister?

The HON. SIR S. W. GRIFFITH: I certainly did not hear him say so.

The MINISTER FOR MINES AND WORKS: All I can say is that I have got the report here, and can read it if necessary.

The HON. SIR S. W. GRIFFITH: The reports of the Supreme Court proceedings are not very accurate.

The PREMIER: It is hardly likely that the reporters invented that.

The MINISTER FOR MINES AND WORKS said he did not think the reporters would misreport the Chief Justice, especially in the use of the term barrister, because everybody knew what a barrister was. He maintained that in consequence of what had occurred, and in consequence of the power claimed by the judges, that clause was absolutely necessary. It was time that the wings of their honours were clipped; they flew too high. There was no attempt whatever made in the clause to interfere with the administration of justice; the judges would administer justice in the same way as they had always done; they would simply be prevented from interfering with the Executive when it wished to appoint an officer in the court for the protection of the public. That was all the effect the clause would have. It would deprive the judges of a power which they claimed under an obscure clause in the Act of 1867, a power which they should not claim, seeing that they had exercised it in the way they had done. He said that the judges were consulted, so that the contention of the hon. member for Charters Towers fell to the ground. The judges knew that a taxing officer was necessary. They admitted that on the bench. They were consulted as to the necessity of the appointment, and the only doubt they had was whether a competent officer could be ob-obtained. Yet, because they did not actually put their names to a document asking the Executive to appoint such an officer, they turned round and declared that the whole of the acts of that officer were null and void, although he had dealt with nearly eighty cases. The judges had provoked a conflict, and when they provoked a conflict with Parliament, they knew what the result would be.

The HON. SIR S. W. GRIFFITH said he should be very sorry indeed to think that any judges would be so foolish as to provoke a conflict with Parliament, and he thought it was a very lamentable thing that the Executive should wantonly endeavour to provoke a conflict with the judges. There was an old saying that "anger is a short madness," and unfortunately the Government here were asking the legislature to legislate because they were in a passion.

The MINISTER FOR MINES AND WORKS: That is not true.

The HON. SIR S. W. GRIFFITH said the speech the hon. gentleman had just delivered showed that the Government were in a passion. They had been irritated and annoyed by something that had been said by the Chief Justice. The principal passages they had taken exception to

in the judgment had nothing whatever to do with the proposals brought before the Committee in that Bill. The Government were annoyed, and they therefore wished to annoy the judges. Fortunately the people at large were not such fools. The only thing the Government were doing by the action they were taking was to hold themselves up to public contempt, not only in this colony, but in all the Australian colonies.

The MINISTER FOR MINES AND WORKS: That is what the judges have done.

The HON. SIR S. W. GRIFFITH said that was what the Government were doing.

The PREMIER: Don't you lose your temper.

The HON. SIR S. W. GRIFFITH said he had not lost his temper. If he had been in the habit of losing his temper certainly the observations made by the hon. gentleman at the head of the Government would have been quite sufficient to justify him in doing so. He (Sir S. W. Griffith) did not think he had done anything in the House to show that he was afraid to get up and speak on any subject, no matter who might be offended at what he said. He certainly was not afraid of the judges, and he did not think any member of the Committee supposed he was. But the hon. gentleman had not attempted to answer the arguments that he (Sir S. W. Griffith) had used, and very wisely, no doubt. There was no possible answer to them. Why were the judges not as competent to advise the Government with respect to appointments in the Supreme Court, as the Railway Commissioners were with regard to appointments in the Railway Department? By the present law the judges had no power in the least degree analogous to that possessed by the Railway Commissioners or by the Civil Service Board. All the judges could do at the present time was to say, "We think another officer is necessary." There their function ended. The Government might either agree or disagree with the judges, and if they agreed they selected and appointed the officer. The Government were not allowed to appoint men to the Railway Department, even if the appointments and the men were recommended by the Commissioners, and under the Civil Service Act the Government must get a recommendation from the Civil Service Board before they could make a new appointment; yet in the case of the Supreme Court—a department which in the opinion of all persons with any knowledge of constitutional law ought to be kept as free as possible from Executive control—it was proposed that the Government should interfere. That was the department with which the Government proposed to interfere, when they were not allowed to interfere with any other department of the Public Service. That was his argument, and no attempt had been made to answer it.

The PREMIER: I did answer it.

The HON. SIR S. W. GRIFFITH said the hon. gentleman never referred to it.

The PREMIER: You were busy reading the paper.

The HON. S. W. GRIFFITH said he was listening to the hon. gentleman, who talked about some observations he understood the Chief Justice to have made with regard to the appointment of a taxing officer. If the decision of the judges on that matter was wrong, the legislature could alter it.

The PREMIER: That is what we propose to do.

The HON. SIR S. W. GRIFFITH said the Government did not propose to do anything of the kind. If the judges were wrong in deciding that the office was a new one, the Government ought to declare by law that the appointment of an additional officer to perform work previously performed by other officers was not the creation of a new office. But instead of that the Government proposed to take into their own hands the administration of the Supreme Court. Fortunately, the other party to the controversy which the Government wished to stir up would not, he hoped, become a party to the controversy, and therefore they would be alone in their attempt to bring about a quarrel; and he also trusted that the administration of justice would not be interfered with. The only persons who would suffer were the Government. They proposed that no new officer should be appointed in the Supreme Court until the Governor in Council certified that a new officer was necessary. They really did not know what they were doing; and, like other people who attempted to act in a serious matter when under the influence of passion, they were, to use a vulgar expression, making fools of themselves. He was sorry to see the Government of the colony stultifying themselves in that way. It could do no good, it could only do harm; and he should like to hear some reasons why the Supreme Court should be selected as the only branch of the Public Service over which the Government were to have unlimited control.

The MINISTER FOR MINES AND WORKS said he did not intend to answer the charge of inconsistency made by the hon. gentleman, because he thought that had been answered already by the Premier. The leader of the Opposition said that the Government introduced the Civil Service Act, because they considered themselves incompetent to appoint Civil servants; and that they now wanted to deprive the judges of the power of nominating or appointing officers to the Supreme Court. But the Government never admitted their incompetency to appoint Civil servants, and the hon. gentleman knew it. He (the Minister for Mines and Works) felt just as competent to join in their appointment now as he did seven years ago when he was in office before; but he then held the opinion, as he did now, that it was inexpedient and inadvisable that the appointment of Civil servants should be in the hands of the Government on account of the political influence brought to bear on them.

The HON. SIR S. W. GRIFFITH: Because you were not fit to be trusted.

The MINISTER FOR MINES AND WORKS said that was not the reason. He did not think the hon. gentleman was one whit more fit to be trusted than the present Government. The hon. gentleman made provision for a land board.

The HON. SIR S. W. GRIFFITH: To perform judicial functions.

The MINISTER FOR MINES AND WORKS said it was the hon. gentleman who introduced the system of boards into the colony; and he must say that the Land Board had been a success.

Mr. O'SULLIVAN: That is more than I can say.

The MINISTER FOR MINES AND WORKS said he hoped the other boards would also be a success. What the Government proposed now was to define the powers of the judges as far as the appointment of officers was concerned in the same way as the powers of the Civil Service Board had been defined by Act of Parliament.

The HON. SIR S. W. GRIFFITH: This Bill does nothing of the kind.

The MINISTER FOR MINES AND WORKS said the duties of the Railway Commissioners were defined also, and there was not much fear of them usurping the powers of the Executive. It was in order to put the judges into the position they ought to occupy that the clause had been introduced—to take from them the power they claimed.

The HON. SIR S. W. GRIFFITH : What is that?

The MINISTER FOR MINES AND WORKS said it was the power they claimed under the 39th section of the Act of 1867, the power not to make appointments, but to prevent appointments from being made until they demanded them.

The HON. SIR S. W. GRIFFITH : The Civil Service Board can do that.

The MINISTER FOR MINES AND WORKS said the head of a department could ask the Civil Service Board to inquire into the necessity for making a new appointment; and no appointment could be made until such a request was made by the head of the department. But the judges claimed to have a power which he hoped Parliament would take from them. They did not claim the power to make appointments themselves, but they claimed the power to prevent appointments to the Supreme Court, unless they asked for them ; and there was very little difference between the two. Though the judges had made no application to the Government for the appointment of a taxing officer, they had admitted the necessity for such an officer, and it was the duty of the Executive to appoint an officer when they knew he was necessary. It was no creation of a new office ; and he said once again, though he did not wish to repeat what he had said before, that the judges had acted in pique, because they were compelled to furnish a return which they had previously refused.

The HON. SIR S. W. GRIFFITH said the 26th section of the Civil Service Act provided that "no new appointment shall be made, except on the request of the permanent head of a department to the Minister, and then only upon a certificate from the board that such an officer is required." The existing law with regard to the Supreme Court was that no new appointment should be made, except on the certificate of the judges that the appointment was necessary. That was to say, the power of the judges with respect to appointments to the Supreme Court was the same as that of the Civil Service Board with respect to every other branch of the Public Service, and it was now proposed to take that away and give it to the members of the Executive Council. It might be intended to substitute the Civil Service Board for the judges, but if not there would be a very strange inconsistency between that clause and the Civil Service Act. The Supreme Court would be put in an exceptional position and be an exceptional department. Its officers would be under the direct control of the Executive who might appoint as many officers as they chose, while for every other branch of the service they had to get a certificate from the Civil Service Board. That was an extraordinary anomaly. An ordinary person would suppose that if there was one department more than another to which that provision should apply it would be the Supreme Court.

The HON. C. POWERS said the Government, in asking the Committee to pass that clause, were asking simply the same right of appointing an officer in the Supreme Court as they had in regard to district court judges. It was not correct to say that they had no right to interfere with any appointments in the service, when they had the right of appointing and dismissing district court judges. Yet the Supreme Court judges said they had no right to interfere. He said that the administration of justice would not be in any way interfered with. So far as quarrelling was concerned, that provision would be the means of avoiding a quarrel, and he believed it had been brought in with no other intention than that of preventing quarrels. That quarrels could happen they had had proof; but there could be no question that quarrels could not happen if that clause was passed. The alteration would simply be that such officers as might be necessary could be appointed by the Governor in Council. At the present time the Government could not appoint an officer, or have anything to say to his appointment, without the advice of the judges.

The HON. SIR S. W. GRIFFITH : Not at all.

The HON. C. POWERS said they could not appoint an officer without the request of the judges. The officers were appointed at the request of the judges, and, as the head of the Government had said, the objection to the appointment in question was that the formality of getting a written request from the judges for the appointment was not observed. The fact was proved that the judges neglected their duties in not recommending that an officer be appointed, because, on their own admission, a taxing officer was necessary. That was one argument for appointing the officer—that he was necessary ; and if the judges knew anything about what was going on in their own court, they would have requested the appointment of an assistant long ago. There was a great deal in what the leader of the Government had said about fees received by the taxing officer, registrar, and others. He could assure hon. members that those fees had been caused not by bribery, but because the officers at present in the court could not get through their work in office hours. They had more work than any men should be expected to do. They had to make appointments a fortnight ahead so far as taxing costs were concerned, and if a bill had to be taxed in the ordinary course it would often take at least a fortnight before it could be done. Sometimes persons preferred to pay a little extra so that the work might be done after office hours. Those officers had too much work to do in office hours, and they did some of the work after office hours, and charged accordingly. The appointment of the taxing officer would, to some extent, do away with that system. The question was, should the Government take the right of appointment into their own hands? There was no intention to interfere with those officers when they were appointed. There was no intention to interfere with the administration of justice, but the Government simply requested the Committee to make that amendment in the law so that no further difficulties should arise. He did not believe there was any Ministry who, if they were requested to appoint certain officers of the court would refuse to do so. To say that the Government had no right to appoint any officers in the service, and that they now proposed to make the Supreme Court office an exception, was absurd. The judges had laid it down clearly that the Executive had no right to interfere in the appointment of officers of the Court, but the very highest authorities had laid it down that the Government had no right to deal with anyone connected with the courts. There was no need to quarrel. The only question was, whether it was advisable for the Government to keep the right of making those appointments in their own hands.

The HON. SIR S. W. GRIFFITH: Why should there be a difference between the Supreme Court and other departments?

The HON. C. POWERS said if any officer was appointed to a department in the same way that the taxing officer had been appointed, without first getting the certificate of the Civil Service Board, and if he was allowed to continue his work for a few weeks or months, and then exception was taken to the appointment, it would be the duty of Parliament just as much to deal with that case as the one before them. He did not think they were singling out the judges any more than any other department would be singled out, if the same necessity arose for dealing with a similar case. So far as the judges were concerned, his (Mr. Powers') arguments, used on a previous occasion, were drawn chiefly from the judges' opinions as to reform. His strongest arguments were obtained from the judges. When speaking of an easier method of obtaining costs, he had pointed out that judges had no option but to allow costs in those small cases until Parliament interfered. Therefore, to his mind, the remarks of the leader of the Opposition did not apply to him when the hon. gentleman said they had only to mention the names of the judges when those members of the Ministry were up in arms at once. The strongest arguments brought forward by himself in support of a proposed reform of the law were taken from the statements of members of the Supreme Court bench itself. He said now, that the proposed reform embodied in the 5th clause was necessary in the interests of the public, and he hoped the majority of the Committee would be of the same opinion. Then as to clause 6, surely the hon. leader of the Opposition would admit that the previous actions of the taxing officer from the time of his appointment should be ratified.

The HON. SIR S. W. GRIFFITH: I never referred to that clause.

The HON. C. POWERS said that by the 6th clause it was proposed to validate the actions of the taxing officer. He hoped the Bill would be soon passed, as the work of the officer was now stopped. By clause 6 they proposed to validate the past actions of the taxing officer, and by clause 5 they proposed to affirm the right of the Governor in Council to appoint officers to the Supreme Court, and he believed that proposal would have the effect of avoiding quarrels, instead of giving rise to them. That was made more clear by the statements of the judges themselves, that if the legislature passed an Act, it would be obeyed. By their action, the judges had said that they would not allow the Executive to appoint officers, whether their appointment was necessary in the interests of the public or not, until they certified that it should be done. They further admitted that a taxing officer was necessary, and that they had not asked that such an officer should be appointed. There had been a neglect of duty on their part in that way, and the Government stepped in and appointed the officer, and he was allowed to go on with his work until someone objected to the costs he had fixed; and his appointment was then said to have been invalid. So far as he (Mr. Powers) knew anything of the officer in question, he believed he had been doing his duty well. He had been told he was to be removed, and so far as the high colouring spoken of was concerned, he might state that he had a letter dated September 12, from which he found that one bill of costs which was rendered at £75 15s. 10d. was allowed by the taxing officer at £18 19s. 4d. That was one specimen of his work.

The HON. SIR S. W. GRIFFITH: That does not prove anything. It may be right and it may be wrong.

The HON. C. POWERS said that taxation had been reviewed before the officer, and that £1 odd had been added. It had not been taken before the judge, because there was no need for it. He said the taxing officer was necessary, and that had been admitted by the judges, and the Committee were asked to affirm the right of the Governor in Council to appoint officers to the Supreme Court.

The HON. SIR S. W. GRIFFITH said it was a lamentable thing to hear a member of the Government asking the Committee to legislate in a certain way upon such statements as had been made in that Committee that evening. He was sure from the statements made, that the majority of members were under the impression that the judges claimed the right to nominate and dismiss the officers of the Supreme Court. Minister after Minister had said that.

The PREMIER: I never said so.

The HON. SIR S. W. GRIFFITH said it was stated that the judges claimed that right.

The PREMIER: It was never so asserted.

The HON. SIR S. W. GRIFFITH said that was the impression intended to be conveyed by the statements made, and it was the impression conveyed to him by those statements, and to a large number of members.

The HON. C. POWERS: They claim the right to dismiss them when the Government appoint them.

The HON. SIR S. W. GRIFFITH said it was lamentable to hear a thing like that said.

The HON. C. POWERS: It is done.

The HON. SIR S. W. GRIFFITH said the judges had done nothing of the kind, and the hon. member knew it. The law said that no officer should be appointed to the Supreme Court except upon certain conditions, and the judges said that those conditions not having been fulfilled as by law required, the appointment was invalid. That was all. The judges had simply interpreted the law as it stood. Why should Ministers misinterpret the facts?

The PREMIER: That is hardly fair.

The HON. SIR S. W. GRIFFITH said it was perfectly fair. Ministers had represented the judges as claiming the power to dismiss officers appointed by the Executive.

The PREMIER said he rose to a point of order. He knew the hon. gentleman did not intend what he had said, because it was not his way; but he would like the hon. gentleman to explain what member of the Government had misinterpreted the facts.

Mr. TOZER: Is that a point of order?

The PREMIER said it was a point of order. If a Minister was accused of stating untruths to the Committee surely that was a point of order, and the statement should either be proved or withdrawn. He had been longer in the House than the hon. member for Wide Bay, and was possibly a better judge of a point of order than that hon. member.

The HON. SIR S. W. GRIFFITH said he did not think he often offended in that respect by using strong language. He used much milder language than was ordinarily used to himself by hon. members on the other side. He had just said that the judges did not claim the right to dismiss officers appointed by the Executive. He was told a little while ago that what he said was not true. That was the sort of language applied to him. Hon. gentlemen on the Treasury benches said that the judges claimed the right to dismiss officers appointed by the Government, and he said that was a lamentable way of misrepresenting the facts. The judges did nothing of the

sort. The judges said that the law providing that no officer should be appointed except upon certain conditions, and those conditions not having been fulfilled, the appointment made without their fulfilment was invalid. Was that a claim to dismiss an officer appointed by the Government? They no more dismissed the man than when they declared that a man was not a member of that House who was not duly elected. The cases were precisely the same. The law provided that no man should take a seat in that House unless he was elected upon certain conditions. The judges were the tribunal to say whether those conditions were complied with. But, in deciding as to whether the conditions were complied with or not, they did not dismiss a member from the House. They simply interpreted the law, rightly or wrongly; he presumed rightly. If the law was not a good one it should be altered, but the Committee should not be misled by a misrepresentation of the facts. If the law was wrong in giving the judges the power of recommendation, that power should be taken away. For himself he did not see any reason why it should be taken away. But he was not now going to enter again into the merits of the case. The judges were quite as good as the Civil Service Board to deal with the matter in any case. They had now an Act upon their statute book which provided that there should be a Civil Service Board to make recommendations in nearly all cases; and what was proposed to be done now was, that the recommendation in the case of officers of the Supreme Court should not be made by the judges, who knew all about them, and should not be made by the Civil Service Board, whose duty it was to know all about them, but by the Governor in Council. So that the Supreme Court would be the one department in the service which might be filled as full as any Government, "pressed by political supporters," to use the words of hon. gentlemen opposite, might think fit to fill it. If they were going to alter the law, as proposed in the Bill, let them at least put in the Civil Service Board instead of the Governor in Council, and then there would be no inconsistency between that Bill and the Civil Service Act. It was an extraordinary anomaly that that should be the one department of the service in which appointments were to be made by the Executive Council entirely, instead of upon recommendation by the Civil Service Board.

Mr. TOZER said that the argument of the hon. member for Burrum with respect to the Supreme Court judges was a bad one, as he had shown in the course of argument that afternoon that the appointment of district court judges was an anomaly. The great bulwark of the Constitution of the colony was the administration of justice. Put that out, and where was the colony? What did they do? They first protected the judges by the mode of their appointment; they then protected them in respect of the tenure of their office; they protected them against the legislature by fixing by Act of Parliament the amount of their salary; and they protected them again in their own jurisdiction; and why did they do all that? Simply because it was necessary to protect them from what might be called the pestilential breath of faction. That was what they recognised in the appointment of the judges, and they said to the judges: "We are here to pass laws, you are there for the purpose of giving effect to those laws." The legislature made the laws, and the judiciary expounded and enforced them. He would never give a vote with more pleasure than he would give his vote against the proposed clause. He did not care a rap for the judges of the Supreme Court, but he did care that the administration of justice should be as pure in this country as it was in America, or in any other democratic country. After the Government had "clipped the wings" of the judges, they would clip them in their mode of appointment, and in their tenure of office, and even in their salary. In fact, an attempt had been made to clip the salary of the Northern judge by cutting down his expenses.

Mr. GLASSEY: So they ought to be.

Mr. TOZER said the Government were falling in with those demagogue notions. The administration of justice should be protected, and he would never be a party to any legislation being done in haste. The very wording of that clause showed that it had been introduced in haste. The hon. member for Burrum had pointed out that there were going to be certain words left in the clause. The words "with the advice aforesaid" were not to be repealed in two places, and the clause there referred to the advice "of the judge or judges for the time being of the said court." It struck him from the wording of the clause that it would be lawful for the Government with the advice aforesaid to remove any officer for inability or misbehaviour, and no officer should be appointed by the Government without the advice aforesaid, which clearly meant the advice of the judges, because he saw nothing in the clause about the advice of the Executive Council. Why had the Government not looked through the whole clause, and eliminated all that referred to the advice of the judges aforesaid? What had the judges done to cause such legislation to be brought in? Was it on account of what had occurred between one of the judges and the Speaker of the Assembly? That was no reason for the Government coming down in a pet and trying to legislate in that way. New South Wales had got a charter of justice, and the people there were glad that they had not departed from that, though the wording of that was stronger than the laws in this colony. Let hon. members look at the constitution of New South Wales. The law in Victoria was also stronger than the law in this colony; and now the people of Queensland proposed to make an alteration in the law.

The PREMIER: I am glad you say the people.

Mr. TOZER said he referred to the people who at the present moment were on the surface—the scum which rose to the top when the nation boiled, and which the majority of members in that Committee represented. That was what he called the people. Properly he should have used the word "populace"—the populace who were represented by the Ministry. Those were the kind of men the Ministry were legislating for on this occasion. He had shown that the people of New South Wales had made no alteration in their charter of justice, and the people had made no alteration in Victoria. He would just give a quotation from what Mr. Burke had said in reference to that principle. The question was not that of the appointment of a taxing officer alone, although he might point out that the taxing officer was not such a minor officer as had been said, because a large amount of money was connected with that officer's work. During the year he had practically a judicial discretion over many thousands of pounds. He considered that the fountains of justice should not be polluted in any way—that was to say they should to a certain extent be guided and influenced by men who were not responsible to any faction of that Committee—namely the judges. The Minister for Mines and Works had let the cat out of the bag when he said that they should clip the wings of the judges, and that

was the intention of the Government in introducing those clauses. He would now quote what Mr. Burke had said:—

"Mr. Burke has, with singular sagacity and pregnant brevity, stated the doctrine which every Republic should steadily sustain, and conscientiously inculcate. 'Whatever,' says he, 'is supreme in a State ought to have, as much as possible, its judicial authority so constituted as not only not to depend upon it, but in some sort to balance it. It ought to give security to its justice against its power. It ought to make its judicature, as it were, something exterior to the State.' The best manner in which this is to be accomplished must mainly depend upon the mode of appointment, the tenure of office, the compensation of the judges, and the jurisdiction confided to the department in its various branches."

The PREMIER said the hon. gentleman had said the people were the scum.

Mr. TOZER: I did not say so.

The PREMIER said the hon. member said that the people who returned the majority of members to the legislature were the scum—that they represented the scum of the people. He was quoting the words used by the hon. gentleman.

Mr. SMYTH: You are putting your own construction upon them.

The PREMIER said he was putting the construction upon what the hon. member had said, which every other hon. member, except possibly the hon. member for Gympie, had put upon the words. The hon. gentleman said the people were the scum. The hon. member had also quoted from the utterances of Mr. Burke. Mr. Burke was a gentleman whom every hon. member in that Committee had heard of, and for whom they might have a great respect; but they all knew perfectly well that Mr. Burke had wound up his life by being the greatest Conservative that had ever lived—by inveighing against the French Revolution, and by going into the House of Commons, and with a theatrical gesture throwing the dagger which he had obtained upon the floor of the House. They knew that he had died a pensioner of the Government, after having lived as a Liberial and a patriot up to that time; but a patriot, as had been said, was the last refuge of a person he would not name. He was glad to hear the hon. member for Wide Bay confess that he also had become a Conservative, and that he had no belief in those people who were returned by the scum of the people. He hoped that would stick to the hon. gentleman, and that he would be known as the member of that Committee who had denounced the majority of the representatives as those who represented the scum of the people. The hon. member had described the scum as that stuff which came to the top at the general election.

Mr. TOZER: I said "when the nation boils."

The PREMIER said "the scum of the people" were the words used. He was glad to find they had such a thorough Conservative. He supposed that the representatives at the bottom of the pot were sitting on the other side of the House.

Mr. TOZER said the hon. gentleman would not get the last word on that point—of that he might rest assured. He (Mr. Tozer) had stated distinctly that he had used the word "people" in its meaning of "populace," and he maintained there was a difference between the words "people" and "populace." He stated that the present Government owed their position upon that side of the Committee to the "populace" and not to the "people" of the colony. He had stated that the majority of that Committee had been put in there by the scum which rose to the top when the nation boiled. The sediment and the goodness remained behind in the people who had returned members on his side of the Committee.

The HON. SIR S. W. GRIFFITH said that the statement made by the Premier was an extraordinary statement to come from a gentleman holding the position of Premier of the colony. The hon. gentleman objected to the opinion of Mr. Burke on the relative functions of the judiciary and executive power. He had known all along that the Premier had no sound or definite principles as to constitutional government or law; but to suppose that any man in a democratic country would seek to depreciate the judiciary at the expense of the Executive certainly indicated the absence of the most elementary knowledge of the true principles of democratic government. He had assumed, at an earlier stage of the debate, that every hon. member was aware of the importance of separating the different functions of the Government—the executive, the legislative, and the judiciary; but one thing had been made perfectly clear, at any rate, and that was that the Chief Secretary was ignorant of that elementary distinction, or ignored it.

The MINISTER FOR MINES AND WORKS said the hon. member for Wide Bay, who occasionally lost his head when he talked of things he knew very little about, had referred to democratic America, and said the judges of Queensland ought to do the same as the judges there did. Was the hon. member aware that in the United States the people elected their judges occasionally?

Mr. TOZER: Not the Supreme Court judges.

The MINISTER FOR MINES AND WORKS said the Supreme Court judges in a great many of the States were elected by the people. The Supreme Court judges of the United States were appointed by the President, and they were all political appointments, every one of them. And whenever a political question came before the Supreme Court—although it was looked upon as the grandest Supreme Court in the world—the judges took their sides as regularly as every member of that Committee did, the Republican on one side and the Democratic judges on the other. The hon. member ought to learn something about democracy before he began to talk about it; but the hon. member was so low down at the bottom of the pot that he had not been able to come to the top among the democrats. He should like to hear the opinions of some of the lay members of the Opposition as to the action of the Government.

Mr. SMYTH: What about your own side?

The HON. SIR S. W. GRIFFITH: They haven't any opinions; they only have votes.

The MINISTER FOR MINES AND WORKS said that two lay members on that side had spoken—the leader of the Government and himself; and he had just the same opinions on the subject then as he had ten years ago, when he first spoke to the leader of the Opposition upon it. Nothing had been done in haste or anger; but it was time something should be done, and he hoped it would be done.

Mr. DRAKE said he did not share in the view of the Minister for Mines and Works as to the corruption or corruptibility of the judges elected in America. He did not believe the yarns they were so constantly hearing about the corruption of the elected judges in America, and he was of opinion that if the truth were known, they were as pure and uncorruptible as the majority of the judges in the British dominions. With regard to judges who were not elected, it must be remembered that in America

they had an enormous choice of judges who had been elected by the people, and who had served long terms upon the bench, and who would not have been elected time after time if there was anything very bad against their characters. He was firmly of opinion that the revelations made some time ago as to the corruption of the judges of New York were the exception and not the rule. He believed the time would come in Queensland when they would have to resort to the practice of elective judges—judges elected, and for a term. With regard to the particular clause before the Committee, he had already expressed his opinion upon it when the Bill was being read a second time, and he had seen no reason to change it. As far as he understood the present position of affairs—and he was not sure whether he had got the rights of it or not—it appeared that a gentleman was appointed as taxing master, and it was afterwards declared by the court that the appointment was invalid because the judges had not certified, under the 39th section of the Supreme Court Act, that the appointment was necessary. In consequence of that, all the work that that officer had done was void, and it became necessary for the Government to bring a special Bill before the House to validate the work that had been done. He also understood the leader of the Opposition to say that he himself had made an appointment to the Supreme Court, overlooking the fact that a certificate of that kind was necessary. He presumed, therefore, that it would be necessary to introduce a Bill to validate the acts of that officer. But the Government had gone a step further, and had inserted a clause providing that for the future such certificate should not be necessary and that the Governor in Council should have the right to make those appointments. The objection, it struck him, was not as to the fitness of the officer, but to the necessity of the office, and yet it seemed to be admitted on all hands that the office was necessary. The only certificate that could have been given would have been that the office was necessary without any reference whatever to the fitness of the individual. It seemed that there was a power given under that clause of the Act by which the judges could prevent the appointment of any person whom they did not desire should be appointed to any particular office. Supposing a person was about to be appointed to a position in the Supreme Court, and the judges did not want that officer to be appointed, all they had to do was to refuse to give a certificate that the officer was necessary. In a roundabout way the judges might be able to do what the Act did not authorise them to do in an open manner. The leader of the Opposition had pointed out as an anomaly that the Government had recently passed Acts putting all appointments in the Railway Department under the Board of Commissioners, and all appointments in the Civil Service under the Civil Service Board, while appointments to that particular branch of the service were to be under a different control. He (Mr. Drake) had never been very much enamoured with the appointment of either of those boards, and he was by no means sure that the appointments made by either of them would be better than those that would have been made by the Executive. Both boards would be subject to a certain amount of influence. He did not mean that they would be guilty of favouritism or nepotism, but it was just possible. With regard to that particular matter, if it came to a question as to whether the Governor in Council should have a right to make those appointments to the Supreme Court unhampered, or whether they were to have only such a limited power of making the appointments that they would be really hampered by the judges to such an extent that it was really the judges who made the appointment—if there was to be a choice, he would just as soon see that power in the hands of the Governor in Council as in the hands of the Supreme Court, and he should therefore support the clause.

Mr. GLASSEY said he felt some degree of diffidence in attempting to speak on that subject, he being a layman, but he must say that ever since he had been able to think at all on public questions he had always held that no man, no matter what his position in life might be, should hold absolute power, whether he was king, emperor, or judge. And being a sort of demagogue, he supposed—one of the characters referred to by the hon. member on his right, Mr. Tozer — it would not be out of place if he stated that he did not share the opinions of that hon. member when he stated that because certain persons expressed opinions in advance of the very conservative opinions held by him, they necessarily belonged to the scum of the people, or to the demagogues. So long as he (Mr. Glassey) occupied a position in that House, he should on all occasions express his honest convictions quite irrespective of the hon. gentleman on his right. As had been pointed out earlier in the evening by the hon. gentleman at the head of the Government, all the trouble and difficulty that had arisen would have been avoided if the judges had exercised more discretion and wisdom in dealing with the matter. If, after the appointment had been made, they had communicated with the Government, stating that it was unnecessary or that it should have received the sanction of the court in the first instance, no difficulty would have arisen. But after allowing the officer in question to perform his duties for six weeks and deal with nearly eighty cases, they all at once took action and declared his work null and void. While he had no desire to cast odium on any of the judges, who ought to be guarded in every possible way in the performance of their high and important duties, he held that no man should be vested with absolute power. The people were the sole judges of the destinies of the country, and, whether he was regarded in the light of a demagogue or as belonging to the scum, he should support the clause.

Mr. TOZER said he desired to say a few words in explanation. The word "scum" to which the hon. member had referred was frequently used; it was not original at all. It meant that in times of political excitement certain questions rose to the surface which sometimes were not judged by the people, but by the populace. They had seen that in the history of the other colonies and in Queensland. The way he had instanced the term just now was that they were legislating in haste, because, although the scum in the pot rose when the pot boiled, it was not the essence of all that was in the pot. He had used the word "people" by mistake; he was using it in the sense of the populace.

The PREMIER: What is the difference?

Mr. TOZER said "populace" was very distinct from "people."

The PREMIER: I should like to know the difference.

Mr. TOZER said the hon. gentleman occupied the position he did by the voice of the populace. It did not follow that the people who were a power that expressed themselves quietly in thought were the populace. He had not intended to say a word that would be offensive to any hon. member, and when he used the word "demagogues," he referred to the Ministry.

The PREMIER: We were called Conservatives yesterday; now we are demagogues.

Mr. TOZER said they were one or the other as it suited their purpose. When they saw that they wanted the assistance of the people they were demagogues. The difficulty hon. members were in was, that they did not know what the principles of the Government were. They were not the Ministry that came into office, and nobody knew what their policy was. Of course the people must prevail. The colony was governed by the people ; and he felt certain the judges, knowing that the legislature could clip their wings by even removing them from office—by degrading them from their position—were not likely to encroach upon the functions of the legislature. What he rose chiefly to say was that the judges were not the aggressors in the present case. The Ministry were the aggressors, because if they had exercised the ordinary principles of common courtesy to the judges, and of common sense when they were making the appointment, they would have avoided all that turmoil. He was sure that if the facts had been put before the judges calmly and clearly, they would have been very glad to have fallen in with the wishes of the Ministry, and there would have been no necessity for that legislation. Therefore, he contended that the Ministry were legislating in haste, simply because they thought the judges had snubbed them. Where did the snub come in? The judges must interpret the law as they found it; otherwise they were not fit for their position. In interpreting the law they had done so without one word of acerbity in their judgment, but they said that the Ministry were technically wrong. He understood from the judgment, that they gave the Minister of Justice credit for the best intention, but they said he was wrong in law. What was easier than to have rectified that by simply writing a letter? But the Ministry, following the course they had followed during the last eighteen months, were determined to keep the colony in a state of turmoil, as they had done in connection with other questions; and he feared that the turmoil beginning now would tend to sap the foundations of justice. That was why he opposed it.

Mr. DRAKE said he would like to add one word to his previous remarks. He wished to point out that the taxing master occupied a somewhat peculiar position in the Supreme Court, inasmuch as he stood, as it were, between the public and the profession. That was an additional reason why the appointment should he in the hands of the Governor in Council.

Mr. GLASSEY said, assuming for the moment that the Ministry of the day had made a mistake in the appointment of a taxing master, and he did not say whether they had or had not, surely it would not be lowering the dignity of a judge to have intimated to the Premier that such and such a thing should be done, because what they had done was contrary to law. The judges should have done that at once instead of allowing the matter to remain open for six weeks before taking action. Some change in the law was necessary to prevent such a thing occurring again.

Mr. HUNTER said the hon. gentleman was assuming that the Government had made a mistake. But suppose they took the other side, and assumed that the judge had made a mistake in addressing certain remarks to the Speaker of the House. Was that any reason why they should alter the law? Because one man had abused his position, was that a reason why they should say that he should not have a chance of doing so again? They should look at it in a broader manner than had been done during the evening. The hon. member for Bundanba had talked about absolute power, and said he would support the clause as it stood, because he did not believe in absolute power. But supposing the clause passed as it stood, would it take away any absolute power? They would merely be saying to the judges, "You know nothing about your department; how do you know whether you require another officer? The Governor in Council knows it, and it is absurd for you to tell us you want another officer; do you think we do not know better than you?" He should oppose the clause. The leader of the Government had taken great pains to tell him that his words had no weight in or outside of the Committee; but he would remind the hon. gentleman that the people had elected him to the position he held, and that was more than the hon. gentleman could say. The people were satisfied with him, and he did not know whether they were satisfied with the position the hon. gentleman held. The clause seemed to be purely personal, and was brought in simply to act against one particular judge, to show him that if he fell out with the legislature his power would be taken from him. That power had been allowed to the judges in all the other Australian colonies, and it would simply amount to this: that because there had been a little quarrel between the Government and the judges in regard to certain returns, their power was to be taken from them.

The PREMIER said he had been elected because nobody cared to oppose him, and he had been elected a good many times. The hon. member was not in that position.

The HON. SIR S. W. GRIFFITH said he wished to know if the Government would not place that department under the Civil Service Board the same as other departments.

The PREMIER said there was no intention on the part of the Government to alter the clause in the direction indicated by the hon. gentleman.

The HON. SIR S. W. GRIFFITH said he should not move an amendment, because it would not be worth while; but he should feel bound to call for a division for the reasons he had stated. He believed the Committee were being misled by the Government in a way which would make them ridiculous in the eyes of everybody in Australia. He believed it would be necessary, before very long, to repeal the clause which was to be passed in a panic. He should vote against it, because before long he expected it would be his duty to propose to repeal it.

Question put, and the Committee divided :—

AYES, 25.

Messrs. Nelson, Morehead, Macrossan, Powers, Black, Donaldson, Pattison, O'Sullivan, Crombie, Campbell, Callan, Hamilton, Norton, Lissner, Glassey, Palmer, Philp, Isambert, Drake, Cowley, Macfarlane, Adams, O'Connell, G. H. Jones, and Murphy.

NOES, 13.

Sir S. W. Griffith, and Messrs. Rutledge, Hunter, Sayers, R. H. Smith, Morgan, Wimble, W. Stephens, Groom, Smyth, McMaster, Tozer, and Unmack.

Question resolved in the affirmative.

On clause 6—"Appointments already made to be valid"—

The PREMIER said that clause was consequential on the one just passed, and he assumed that there would be no opposition to it. He did not intend to proceed any further with the Bill that evening.

Clause put and passed.

Clause 7—"Sections to take effect"—passed as printed.

On the motion of the PREMIER, the CHAIRMAN left the chair, reported progress, and obtained leave to sit again to-morrow.

MESSAGE FROM THE LEGISLATIVE COUNCIL.

COMPANIES ACT AMENDMENT BILL.

The SPEAKER announced that he had received the following message from the Legislative Council:—

"Legislative Council Chamber,
"Brisbane, 24th September, 1889.

"MR. SPEAKER,

"The Legislative Council having had under consideration the amendments made by the Legislative Assembly in the Companies Act Amendment Bill, beg now to intimate that they—

"Disagree to the transposition of clauses 7 and 8, and to the proposed amendment in clause 8—Because the clauses are in the nature of exceptions to the provisions of clauses 5 and 6, and would most conveniently follow after those clauses.

"Agree to the amendment in clause 18, line 25 (clause 17, lines 14 and 15, as now printed), with the following amendment:—Omit the words 'increased or reduced or by which the amount of the shares is reduced,' insert the words 'divided into shares of a larger or smaller amount.'

"Disagree to the amendment in clause 21, line 24 (clause 23, line 41, as now printed)—Because it appears undesirable to extend the provisions of the clause to other companies than banking companies.

"Agree to new paragraph in clause 21, with the following amendment in line 27:—Before the word 'company' insert the word 'banking.'

"Agree to the amendments in clause 22 (clause 24 as now printed), with the following amendments:—In line 34 (as now printed) before the word 'company' insert the word 'banking,' and in line 35 omit the words 'the chairman of' insert the words 'at least one of the.'

"Agree to new clause (25 as now printed) to follow clause 22, with the following amendments in line 46:—Omit the word 'section,' insert the word 'Act.' Omit the word 'companies,' insert the word 'company.'

"Disagree to new clause 26 (as now printed)—Because the statutory provisions already made in respect of periodical returns from companies appear to be sufficient.

"Disagree to the transposition of clauses 23, 24, and 26, and to the proposed amendment in clause 25 (21 as now printed)—Because the proposed transposition would tend to confuse two distinct subjects under one heading.

"Disagree to proposed amendment in clause 27, line 16 (clause 28, line 40, as now printed)—Because with the proposed amendment the intention of the clause would not be accurately expressed.

"Disagree to proposed amendment in clause 28 (clause 29 as now printed)—Because it is desirable that the registration of the contract should in all cases be insisted on.

"Disagree to proposed amendment in clause 30 (31 as now printed)—Because the proposed amendment would render the clause practically useless, and it is desirable that the right of a transferror to claim registration of his transferee should be affirmed by statute.

"Disagree to proposed amendments in clause 42, lines 2 and 7 (clause 25, lines 14 and 18 as now printed), omiting the word 'six' and inserting the word 'three'—Because the period originally proposed by the clause does not appear to be too long after the registration of the company.

"Disagree to the proposed amendment in lines 8 and 9 now lines 19 and 20)—Because the subscribers to the memorandum of association, in cases where they have by law the appointment of directors, may themselves cause a non-compliance with the provisions of the clause.

"Disagree to the proposed amendments in clause 43 (36 as now printed)—Because the proposed amendment might be held to limit the application to companies registered under the Companies Act of 1863.

"And agree to all other amendments in the Bill.

"A. H. PALMER,
"President."

On the motion of the POSTMASTER-GENERAL, the consideration of the message was made an Order of the Day for Thursday next.

ADJOURNMENT.

The PREMIER said: Mr. Speaker,—I move that this House do now adjourn. The first business to-morrow will be the consideration of the Drew Pension Bill in committee; after that the further consideration of the Supreme Court Bill; then the Estimates.

Question put and passed.

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