Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

TUESDAY, 10 OCTOBER 1899

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LEGISLATIVE ASSEMBLY.

TUESDAY, 10 OCTOBER, 1899.

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

PETITION.

EXTENSION OF THE BOWEN RAILWAY.

Mr. W. HAMILTON (*Gregory*) presented a petition from the residents of Winton and the surrounding country, praying for the extension of the Bowen Railway to the 37-mile peg on the Northern line.

Petition read and received.

QUESTIONS.

CAIRNS HARBOURS AND RIVERS WHARF.

Mr. GIVENS (*Cairns*) asked the Treasurer—

1. Is it true that the Cairns Harbours and Rivers Wharf has been leased to the Chillagoe Railway and Mines, Limited?

2. If such lease has been issued, will the Minister state the terms on which it has been granted?

The TREASURER (Hon. R. Philp, *Townsville*) replied—

1. No.

2. An exchange was effected, particulars of which are set forth in the papers laid before the Assembly on the 19th September last, in obedience to an order obtained at the instance of the hon. member himself.

CONCESSIONS TO THE CHILLAGOE RAILWAY COMPANY.

Mr. GIVENS asked the Secretary for Railways—

1. Is it true that goods, such as hay, chaff, oats, corn, etc., are being carried on the Cairns Railway for the Chillagoe Railway and Mines, Limited, at the special low rates usually charged to railway contractors for the carriage of railway construction materials intended to be used in the construction of Government railways?

2. Have any such goods been carried over the Cairns Railway at the reduced rate for that company during the last twelve months?

3. Is it usual to regard the goods mentioned as railway construction material?

The SECRETARY FOR RAILWAYS (Hon. J. Murray, *Normanby*) replied—

1. Yes.

2. Yes.

3. No. The concession was granted in error, and attention was drawn to it some time ago, when the matter was put right. An account has been sent to the Chillagoe Company for the amount undercharged—viz., £98.

CONVICTIONS OF COLOURED ALIENS.

Mr. LESINA (*Clermont*) asked the Home Secretary—

1. What is the total number of convictions for all offences registered against coloured aliens in the colony of Queensland during the five years, 1st July, 1894, to 30th June, 1899?

2. The number of coloured aliens at present in the gaols of the colony?

3. The cost per diem, approximately, of maintaining them?

The HOME SECRETARY (Hon. J. F. G. Foxton, *Carnarvon*) replied—

1. 1,611.

2. 105.

3. Approximate daily cost of rations, per prisoner, 5½d.; approximate daily cost of rations and supervision, 1s. 11½d.; approximate daily cost of rations, supervision, and contingencies, per prisoner, 2s. 5½d.

FORMULATION OF FEDERAL TARIFF.

Mr. BARTHOLOMEW (*Maryborough*) asked the Chief Secretary—

1. Has Queensland been invited to send representatives to the southern conference that is about to be held to formulate a federal tariff?

2. If not, is the Government going to take action in the matter?

The CHIEF SECRETARY (Hon. J. R. Dickson, *Bulimba*) replied—

1. No intimation of any official conference has been received by Queensland.

2. No. Not until an official conference is authoritatively summoned.

CAMELS IN THE SOUTH-WEST.

Mr. STORY (*Balonne*) asked the Home Secretary—

1. Is he aware that arrangements have been made for the regular employment of 400 camels in South-western Queensland, and that the Afghan camel owners have leased a house and paddock in Cunnamulla for permanent occupancy?

2. Does the Home Secretary intend to take any action in response to the petition of the Anti-camel League presented to him last week?

3. If so, when?

The HOME SECRETARY replied—

1. I am informed that certain pastoralists have leased a paddock at Cunnamulla for twelve months for the accommodation of camels owned by them to the number of 100 or thereabouts.

2. Inquiries are being made as to the number of pack animals in use in the colony for carrying purposes, with a view to legislation if found necessary.

MAINTENANCE OF DISEASED DRUNKARDS.

Mr. LESINA (*Clermont*) asked the Home Secretary—

Will he give the House an estimate of what it costs the Government per annum for the arrest, imprisonment, and maintenance of diseased drunkards in the various gaols, hospitals, and lunatic asylums throughout the colony of Queensland?

The HOME SECRETARY replied—

No record is kept of the inmates of these institutions, which draws a distinction between drunkards (diseased or otherwise) and other inmates, and therefore data for any such estimate are not available.

RESIGNATION OF NAVAL OFFICERS.

Mr. ANNEAR (*Maryborough*) asked the Chief Secretary—

1. Can any reason be given the House for the resignation of seven officers of the Naval Defence Brigade?

2. Is it a fact that on two occasions the Acting Naval Commandant advised his own retirement as being out of date?

3. Are Naval Brigade officers prevented by regulation from ventilating their grievances through the Press? If so, why does an account of Captain Drake's views on the resignation of his lieutenants appear in the *Courier* of the 3rd October?

4. Do the Government intend holding an inquiry into the cause that led to the retirement of such a number of efficient officers?

The CHIEF SECRETARY replied—

1. So far as I am able to ascertain, the chief reasons lie in the non-recognition of their claim to take naval charge on board ship, for which the acting naval commandant does not consider them qualified, and in their objection to serve under officers on the unattached and retired lists who are considered to be qualified, but who do not regularly attend drills.

2. Yes; and inquiries have been instituted with a view to securing the services of an officer of the Royal Navy to succeed Captain Drake.

3. Yes; by Regulation No. 192. I learn that information of the resignations of the officers, whose cases are now referred to, appeared in the local Press before the letters conveying them were received at the Head-Quarters' Office of the Marine Defence Force, and that Captain Drake, as the acting naval representative authority, considered it his duty, in the general interests of the force, to take what he considered necessary action to prevent discontent and possible injury to the service.

4. A full statement of the grievances of these officers has been forwarded, through His Excellency the Governor, to the Naval Commander-in-Chief on the Australian station, with a request that the Government may be favoured with a report by a competent authority on the whole question at issue. Pending receipt of this report no action will be taken with respect to the resignations.

TRANSVAAL CONTINGENT.

* Mr. GLASSEY (*Bundaberg*) asked the Chief Secretary, without notice—1. Have any persons other than officers who were connected with the Defence Force during the industrial troubles of 1891 applied to be enrolled as volunteers to serve in the Transvaal in the event of a contingent being sent from this colony? 2. If so, is it the intention of the Government to give preference to these or such applicants?

The PREMIER replied: I have not received any such applications, and, if any such were forwarded, merely on account of any such previous service, they would not be given any preference.

PAPERS.

The following papers, laid on the table, were ordered to be printed:—

Telegram from the Secretary of State for the Colonies, respecting the adoption by the Legislative Assembly of the Address to the Queen, praying for the establishment of the Commonwealth.

Report of conference of military commandants concerning proposed United Australian contingent for the Transvaal.

Annual report of the Department of Agriculture.

SPEAKER'S RULING.

SUBSTITUTION OF NAME IN MOTION FOR APPOINTMENT OF SELECT COMMITTEE WITHOUT NOTICE.

* Mr. COWLEY (*Herbert*), in moving—

That this House dissents from the ruling of Mr. Speaker, given on the 28th ultimo, to the effect that it is competent to move without notice the insertion of a name in substitution of another proposed to serve on a select committee—

said: Mr. Speaker,—It will be within your recollection, and the recollection of the House, that on the 28th ultimo, whilst the question was under consideration for the appointment of a select committee, the hon. member for Cook moved an amendment—to omit a certain name with the view of inserting another. I rose and asked your ruling whether the hon. member was in order in so doing, without giving due notice, and you ruled that he was in order. Hence the motion which is now before the House. Now, Sir, this question is one of dry procedure, and therefore I deemed it much better to bring it forward after due notice, so as to give you, and other members who desired it, an opportunity of fully considering the question, instead of moving it immediately after your ruling was given, when the House would perhaps not be able to come to such a conclusion as it would do after mature consideration. Under our Standing Orders there is no provision made that notice should be given, and, generally speaking, both in our House and in the House of Commons, any question is open to an amendment when it is once before the House. But there are certain exceptions to this general rule, which I will quote. In "May," page 275, you will find—

Previous notice of a matter brought before the House by way of amendment is, as a rule, unnecessary. Notice, however, must be given of amendments on going into committee of supply; of clauses on the

consideration of a Bill by the House; of the names of members to be nominated by way of amendment, on a select committee.

On page 235 it is also said—

Previous notice of certain motions is prescribed by the Standing Orders, namely, notice must be given of new clauses on the report of a Bill; of a motion or an amendment regarding the nomination of members for service on select committees, etc.

On page 383 you will also find—

As is mentioned on page 235, pursuant to Standing Order No. 67, the nomination of members on a committee, or the substitution of members for those who have been nominated thereon . . . cannot be moved, except upon previous notice.

Therefore, if we are to take "May" as a guide, we must admit that there cannot be the slightest mistake in my contention that notice must be given to substitute the name of one member for that of another proposed. Having given these quotations from "May," I will also quote a ruling given by Mr. Speaker Peel in the House of Commons which applies to the question under consideration. On the 14th July, 1890, a select committee was proposed of twenty-one members. When the question was before the House for the appointment of the committee, it was proposed to increase the members from twenty-one to include the whole of the Scotch members. I may say here that there is a slight difference between the practice of the House of Commons and our practice in regard to the appointment of select committees. First of all, in the House of Commons the committee is appointed. Under our Standing Orders, when a member gives notice for the appointment of a select committee, he gives notice:—(1) That a committee be appointed; and (2) That it shall consist of certain members. Therefore it is one question under two headings. But in the House of Commons it is two different questions. First of all, the committee is appointed; and secondly, the members are nominated to the committee. It was proposed that this committee should consist of all the Scotch members. That was rejected, and the original motion was carried that it should consist of twenty-one members. It was then proposed by Dr. Clark that a certain name should be substituted for the name of C. Dalrymple, and the Speaker immediately rose and said—

Order, order. It is not competent for the hon member to move without notice the insertion of another name, although he may move to omit any particular name.

I think I have shown, both from "May" and by this last quotation from the Commons *Hansard*—I shall not weary the House by giving other precedents, although there are a good many—the actual practice in the House of Commons. In the case cited a similar question was raised to that which has been raised here—namely, to substitute the name of one hon. member for that of another who had been already proposed to serve on a select committee, and, as the hon. member did not give the necessary notice, the Speaker ruled that the amendment could not be put. A similar question arose in our own House in 1895, when Mr. Powers proposed the appointment of a select committee to inquire into certain charges which had been made against members of this House *re* Tattersall's consultations. In the course of the debate the Colonial Secretary, now Sir Horace Tozer, suggested that the name of Mr. Morehead should be added to the committee, and, by the unanimous consent of the House, Mr. Morehead's name was added. Then followed this—

Mr. POWERS: Not the slightest.

The COLONIAL SECRETARY: That being so, I have no objection to the motion.

The SPEAKER: Is it the pleasure of the House that the motion be amended by the addition of the name of Mr. Morehead?

HONOURABLE MEMBERS: Hear, hear!

Mr. CAMERON: I propose as a further amendment to substitute the name of Mr. Dawson for that of Mr. McDonald.

The SPEAKER: The hon. member will not be in order in doing so. It is necessary to give notice of an amendment substituting a name. The amendment can only be put by leave of the House.

Mr. CAMERON: I ask permission of the House.

Mr. DAWSON: I object.

No further action was taken in that case. Now, I think I have clearly shown that it has been the practice in the House of Commons and in our own House to require notice of an amendment of this nature. It is purely a question of dry detail, which can be settled once for all as far as this Parliament is concerned, and I trust hon. members will do what they consider right in this matter. The question as to whether it is desirable that notice should be given in such cases is not now before the House, but I am of opinion that it is very desirable indeed that notice should be given. Any hon. member who has seen his name nominated to serve on a select committee, should have notice of a proposal to substitute another name for his. I cannot imagine that you can touch an hon. member in a more vulnerable point than to object to his serving on a select committee, and to propose to substitute the name of some other person, without giving that hon. member due notice of the matter so that he may be here to answer for himself. The practice I have referred to has been universally adopted in all Parliaments I know of, and it is very essential indeed that every hon. member who has been nominated on a select committee should have an opportunity of replying to any charges that may be brought against him. Therefore I think the practice of requiring notice is a wise one, and I sincerely trust that this House, in considering the question, will look at it from the point of view of what is absolutely necessary for its best interests, and for the interests of the minority in the House. I beg to move the motion standing in my name.

The PREMIER (Hon. J. R. Dickson, *Bulimba*): This motion seems to be somewhat of an innovation on the ordinary procedure of this House, and a good deal of consideration is required as to whether the opinions expressed, or the fact stated by the hon. member who moved it, are such as to justify us in affirming his motion. Of course, the hon. member speaks with an amount of authority, from his long experience and observation in the chair, which entitles what he says to our respectful consideration. But I am not sure that the practice which I understand obtains in the House of Commons, and which, I presume, is the basis on which the hon. member moves his present motion, is altogether applicable to our conditions. Indeed, I think the ruling you, Sir, gave is a convenience to a Chamber such as this, where I understand we have not the same procedure as is adopted in the House of Commons. There, I believe, a select body is appointed to select the names of members for certain committees, and consequently those names having been selected beforehand by that committee, it is advisable, if any of the names are objected to, that notice should be given of that objection and of the names to be substituted.

Mr. DAWSON: That is after the constitution of the committee.

The PREMIER: Yes. But I very much question whether the procedure here is analogous to that of the House of Commons; in fact, I can hardly recognise that it is so. I am placed in this poistion: That while I do not want in any way to discredit the experience of the hon. member for Herbert, still at the same time I think that under all circumstances the authority

of the Chair should be maintained. At the present time I have not sufficient information before me to justify me in dissenting from the ruling you, Sir, have already given, and which I think was given with a desire to convenience the action of hon. members in this Chamber. I may say at once that I wish my hon. friend the member for Herbert had seen his way to withdraw the motion. It is not desirable that the authority of the Chair should be gainsaid, or that the ruling of the Chair should form the subject of discussion, unless, indeed, it were a very flagrant violation of our Standing Orders, which I do not conceive can be alleged in the present case. I do not wish to protract the debate, but I felt that it was incumbent upon me to express some opinion on the matter, and with very great respect for the mover of the motion I would urge him to withdraw it, because I believe the action of the Speaker was taken after full consideration, not only of our Standing Orders, but also of what was best adapted to the procedure at the time he gave his decision.

Mr. BELL (*Dalby*): I do not share with the hon. member at the head of the [4 p.m.] Government that the hon. member for Herbert should withdraw his motion. On the contrary, I think the hon. member for Herbert has done well to give notice of this motion, for, whether in regard to the particular matter it deals with, or in regard to the general principle of a periodical investigation, such as here is proposed, into the practice and principles of the management of this Chamber, I believe it is an excellent thing to have discussions such as this motion provides. We are discussing, as the hon. member for Herbert said at the outset of his remarks, a dry point of procedure, and he emphasised, as far as he could, that it was upon the point of procedure that he desired hon. members should discuss it, and that they should discuss it in as judicial a frame of mind as most of them are capable of approximating to. I think the warning or appeal of the hon. gentleman is a very timely one, for, although I have been absent from Brisbane during a considerable part of the time which has intervened since this notice was given, I have heard that hon. members are going to give votes that will not in the least degree be dictated by any judicial impetus—that, on the contrary, they will discuss it from the point of view of their own personal motives, and allow their personal motives to blind the judgment they will give. I have heard hon. members, for instance, say that their feelings either towards the Speaker or the hon. member for Herbert will be a powerful factor in influencing their vote. I can only say that if hon. members, or any hon. member, like to vote in that frame of mind, they are perfectly at liberty to do it. It is a free country, but they are departing from that course that every hon. member should endeavour to follow—in order that the privileges and practices of Parliament should be in strict accord with the letter of the law—namely, that in the matter of procedure no personal feeling in any degree whatever should accrue. This is the feeling which is influencing me in the attempt I am making to give my opinions on this subject. The hon. gentleman at the head of the Government, as I understood him, remarked that in the matter of select committees, there was not much analogy—if any analogy—between the practice of the House of Commons and the procedure in this Chamber. I differ from the hon. gentleman. As far as I can see, from my reading of "May," the practice in regard to select committees is similar, as far as the instance under discussion is concerned, to the practice in this House. It is perfectly competent for a private member in the House of Commons to get up and move any names he proposes to place on a select committee; and inasmuch as this can be done in this House—and inasmuch as it was done in the instance we are debating—there is a complete analogy between the House of Commons and the matter now before us. As we know, when our Standing Orders do not deal with any particular point which arises, it is the direction of the Standing Orders that we refer to the practice of the House of Commons for our guidance, and I respectfully lay down that principle for the consideration of hon. members on the matter we are now discussing. We must remember that we cannot find any direction in our own Standing Orders as to the course we have got to pursue, and we have got to turn to the practice of the House of Commons in order to see what can be done. I submit that if it can be established that the House of Commons does not support the ruling you gave the other night, Mr. Speaker, undoubtedly it is our duty to reverse that ruling. If we believe the ruling you gave—even though we believe it is in accord with what should be the practice of the House of Commons—if we believe it is against the practice of the House of Commons, we nevertheless should reverse it. Our proper course then would be to place upon the Standing Orders a rule which will allow a member to move, at a moment's notice, a substitution of one name for another of the members of a select committee. I say, therefore, that our duty is to ascertain what is the practice of the House of Commons. I find several instances occurring in the House of Commons which gives us some guide on this point. Going back to the year 1860, I come to a condition of things very similar to that which happened here. A motion was made to appoint a select committee in connection with the construction of the Thames embankment. A select committee had been moved for by Sir Joseph Paxton, a gentleman who did not hold, as far as I am aware, any official post in the House. He was, I believe, a private member. Lord Fermoy was under the impression that the metropolis of London was not fairly represented on the committee, and moved to substitute the name of Sir James Duke for Alderman Cubitt. Mr. Speaker said—

> The hon. member could not suggest the insertion of another name on the committee without due notice.

I now turn to 1878. The question was a select committee to inquire into the working of the Mutiny and Marine Mutiny Acts. Mr. King-Harman moved that the hon. member for Kerry be added to the committee, and Mr. Speaker Brand said—

> It was not now competent for the hon. member to make the motion, as it was necessary that notice should be given of the name proposed to be added to the committee.

Then in 1884 Mr. Shields moved in the matter of the Yorkshire Land Registries and Yorkshire Registries Bill for the nomination of the select committee. On a motion that Mr. Dodds be one of the members of the committee—

> Mr. Shields: Has the hon. member who is moving this complied with the Standing Order of the House with regard to notice?
>
> Mr. Speaker: One day's notice is all that is required in this matter.

There was some little discussion, and Mr. Speaker went on to say—

> An hon. member must give notice of his desire to substitute another name.

The hon. member for Herbert has quoted Sir Erskine May on this matter as well. These are the opinions of various Speakers of the House of Commons on this particular point, and I find it difficult to imagine how hon. members of this

House can get away from the conviction that while our Standing Orders are silent, the other authorities that we must turn to for our guidance are explicit upon the fact that any proposal to substitute a name on a select committee for that of another requires notice. I find it difficult to believe that hon. members can find any authority in "May," or any practice in the English Parliament, to disturb that conclusion. But apart from that consideration, which after all is the chief point of view we must take, there is this other consideration attaching to the matter. I consider it highly undesirable that any hon. member should have the right of springing such an amendment as the one that has caused the consideration of this point upon the House, for undoubtedly it is taking not only the member who is moving for the select committee but it is taking the man whose name it is proposed to omit, and it is taking also the name of the man it is proposed to insert, at a disadvantage. The general practice in Parliament is that nearly every proceeding in Parliament must be preceded by a notice of motion. That is an absolutely healthy principle, because it means fair play to everybody; but if we are to extend the operation of that principle, which allows, on rare occasions, motions to be submitted without notice I say we are allowing traps to be created in the practice of this House into which, sooner or later, most hon. members will fall—undoubtedly those hon. members will fall who are concerned in private business. We know that hon. members have only a matter of two hours and a-half to do private business on an afternoon, and there is nothing easier than for a Government, or an individual member who may wish to do so, to block any motion on a private business afternoon by moving such an amendment as was moved the other night. It is not right for me to ascribe motives to any hon. member, and I do not think I would be right in ascribing motives on this occasion; but if I wished to point my argument by the use of any concrete illustration, I could not do better than point to what happened the other evening in regard to a motion of mine in connection with the Buildings Committee as a proof of the danger that lies at the foot of any private member if the practice we are now discussing is allowed to become the rule of this House. I say that no member should be allowed to move the substitution of another name for the existing one on a select committee unless he gives notice, inasmuch as also the House also insists that notice should be give of the original select committee. I therefore am unable to see that either from the point of view of convenience of procedure, or from the point of view of traditional practice that your ruling the other afternoon was warranted. I say that with the greatest respect for yourself, and in the thorough belief that if your ruling is reversed it will be in no degree a censure upon yourself. The point was sprung suddenly upon you, and even if you gave an erroneous judgment, you do not suffer any depreciation in the opinion of the House. I submit that we should go to a division on the legal merits of the question; and I, for one, at all events, am unable to see any other view than that the ruling you gave the other night was not the correct one.

The SPEAKER (Hon. A. Morgan, *Warwick*): Before the debate proceeds further I would like to offer a few observations on the motion before the House.

HONOURABLE MEMBERS: Hear, hear!

The SPEAKER: Let me say by way of preliminary that I think the course taken has very much to recommend it for two reasons, which it is not necessary that I should at this moment enlarge upon. But I am under a disadvantage arising from the fact that neither in the point of order raised by the hon. member for Herbert on the 28th ultimo, nor in his present motion, has the hon. member stated the reasons upon which he founded his objection, and I am only now, when called upon to defend my ruling, made aware of the grounds upon which it is proposed to dispute it. I have, however, consulted our own Standing Orders, and the practice of the House of Commons upon the method of, and the restrictions upon, the substitution of one name for another in the appointment of a select committee. The mode of appointing select committees of the House of Commons is more complicated than that of this House; and even if I could discover, which I have failed to do, that there had been in the case in question a departure from the letter of the practice of the House of Commons, I doubt if there was an infraction of any important principle which should weigh with the Chair in giving a ruling. It cannot be contended that resort should be had to the rules, forms, and usages of the House of Commons where there is no special provision in our own Standing Orders unless the cases in which such resort is intended to bear are in all respects strictly analogous. It seems to me that the modes of constituting select committees in the two bodies is wanting in such analogy, and that the difference is sufficiently material to render our Standing Order No. 335 inapplicable. While it is obviously the duty of the Speaker to strictly apply our own Standing Orders, and to bring the 335th Order to bear when necessary, it seems to me that the immense difference in the numbers of the two bodies justifies a greater simplicity of practice in this House, and also imperatively demands that in cases in which we fall back upon the practice of the House of Commons, such practice should be expressed in the plainest and most unmistakable terms, and should not be open to broad differences of opinion as to what is really intended by the English authorities. In the present case I am not satisfied that the contention of the hon. member for Herbert is correct, and am still of opinion that the course taken by the House on the occasion in question was in order. That it was simple, convenient, and intelligible seems to me to admit of no question. The contention of the hon. member, if I rightly apprehend his argument, is that I was wrong in treating the amendment of the hon. member for Cook as a simple amendment—it is argued that notice of it ought to have been given. The Commons practice is cited in support of this argument. I have already pointed out that in this matter there is no strict analogy between the practice of the House of Commons and the practice of this House in the appointment of select committees, but even if there was, I would hold to the course I have taken. It is laid down in "May's Parliamentary Practice," page 235, that notice must be given under the House of Commons Standing Order No. 67, "of a motion or an amendment regarding the nomination of members for service on select committees, or of a proposed addition to a committee," and then there is a reference to page 383. There the reference to the Standing Order is still more explicit. The passage reads—

> As is mentioned on page 235, pursuant to Standing Order No. 67, the nomination of members on a committee, or the substitution of members for those who have been nominated thereon . . . cannot be moved except upon previous notice. Previous notice also is required of a motion to discharge a member from attendance on a committee.

This, it will be observed, is a mode of procedure rendered necessary in pursuance of Standing Order No. 67, which reads—

> That no select committee shall, without leave of the House, consist of more than fifteen members; that suc

leave shall not be moved for without notice; and that in the case of members proposed to be added or substituted, after the first appointment of the committee, the notice shall include the names of the members proposed to be added or substituted.

Mr. GLASSEY: When first appointed?

The SPEAKER: Yes.

Mr. GLASSEY: That is an important point.

The SPEAKER: In "Parliamentary Procedure and Practice" it is mentioned that in the Canadian Commons the names of members are frequently added to committees or substituted in place of others, without notice, though it is admitted that the practice is not strictly regular. And in this House the practice for which the hon. member for Herbert is contending has not always been followed. Indeed, there are on record very few instances of its having been literally observed. The hon. gentleman in his opening remarks referred to the ruling given in 1895, a ruling given by himself. On the other hand, precedent can be found for the practice now challenged, which, it may be pointed out, has been followed on two occasions this session. In 1887 Sir S. W. Griffith submitted a motion for the appointment of a joint select committee to inquire into and report upon a certain matter, naming in the motion the members of the Assembly whom he proposed should serve on the committee. The motion was discussed at great length in a House containing many experienced parliamentarians, and was in the end materially altered by the House. The House first decided that the committee should be an Assembly committee instead of a joint committee; then two additional names were added, without notice, to the list of names originally proposed; and finally it was proposed, without notice, and debated, that two of the names that had been added to the committee should be omitted therefrom. The amendments to add names and to omit names were on that occasion treated, as I treated the amendment moved by the hon. member for Cook on the 28th ultimo, as a simple amendment. I repeat the opinion that the course I pursued on the 28th of September was in order, and that it was convenient, simple, and intelligible.

Question stated.

Mr. COWLEY (*Herbert*): If no other hon. member wishes to speak on this matter, I should like to say a few words in reply.

Mr. McDONALD (*Flinders*): I should like to say a few words on this matter. I recognise the point in what the hon. member for Dalby has said—that it would be a good thing for every hon member to try and deal with matters like these, not from a personal point of view, but from a point of view that is likely to better the procedure of the House. I quite sympathise with the hon. gentleman, because I have seen on several occasions hon. members bringing up points of order, and they have been deliberately voted down by hon. members on the Government side, and then the Government have had to come down next day and reverse the position they had taken up. I think that that is a position that this House should never be allowed to drift into. I think it is necessary to manage the business of the House in accordance with the practice and procedure we have laid down for ourselves. If we do that, we shall be doing what is likely to be conducive to the better management of the business of the House

Mr. DAWSON: Procedure should not be made a party question.

Mr. McDONALD: I agree with the hon. gentleman, but I am very sorry that it has been made a party question, and that on more occasions than one. I think it was very bad taste on the part of the hon. member for Herbert to have moved this motion, considering he is an ex-Speaker of this House. It seems very doubtful whether the ruling is right or wrong and it would have been far better that some other hon. member should have moved that your ruling be disagreed to. It seems to be doubtful whether it is correct to substitute the name of one hon. member on a select committee for that of another, and the matter should be settled at once and for all. Otherwise I think it would be establishing a precedent that would probably lead the House into serious trouble in the future. The hon. member for Dalby dealt with the practice of the House of Commons, but I contend that we should only have recourse to the practice of the House of Commons when our own rules and orders are silent. As you, Sir, have already given your ruling, and quoted two precedents, I think that the procedure adopted in this House is higher than the procedure in the House of Commons, and should be adhered to. Whether those rulings were good or bad, I am not prepared to admit, but we should be guided by our own precedents, and then, outside of these, it is a matter of considering the Standing Orders of the House of Commons. Under the circumstances, I regret that the hon. member for Herbert has felt it incumbent on himself to raise this point of order.

The HOME SECRETARY (Hon. J. F. G. Foxton, *Carnarvon*): The hon. gentleman who has just spoken said at the outset that this matter should not be discussed from a personal standpoint, but he concluded with remarks which were certainly not in accordance with that advice.

Mr. McDONALD: I never gave any advice. It was the hon. member for Dalby who gave advice.

The HOME SECRETARY: The hon. member indulged in several personalities with regard to the hon. member for Herbert. Whether we agree with the hon. member for Herbert or not, I am sure that all give him credit for undertaking what to him must certainly have been a very unpleasant duty.

HONOURABLE MEMBERS: Hear, hear!

The HOME SECRETARY: No doubt he conceived it to be his duty to take this action; but personally I don't agree with him in the view he takes of the matter. On the other hand, I am inclined to the view expressed by yourself, Sir, and I consider the precedent made in 1887 is one that the House should have followed ever since. The decision quoted by the hon. member for Herbert was a departure from our own precedents, and I think that, on the ground of convenience, it is desirable, as I shall endeavour to show, that we should go back to the precedent of 1887, as has been done on two occasions this session. My reasons for thinking this lead me to totally different conclusions from those expressed by the hon. member for Dalby, who laid stress on the fact that this course would be to lead hon. members to move amendments without previous notification. Now, we know that in all cases it is impossible to give notice of amendments. As a matter of convenience it is desirable that every hon. member moving an amendment should give notice of his intention.

Mr. DAWSON: The hon. member never circulated his own amendment.

The HOME SECRETARY: But, according to our own procedure, it is not practicable to give notice on all occasions of an amendment, such as the substitution of one name for another on a select committee. In this connection, if the practice of the House of Commons were followed, it would mean in a large number of instances that the members first nominated by the hon. member moving for the select committee would have to be appointed, or nobody at all would be appointed, because it is competent for any hon. member to give notice to-day—presuming that the next day is a day for private

members' business—that to-morrow he intended to move that a select committee be appointed, and unless an hon. member who intended to move an amendment immediately gave notice of such intention he would be precluded from taking such action, the motion would have to be carried with the names as nominated by the mover of the motion, or it would have to be negatived. It seems to me that that is an unanswerable reason for the convenience of the [4·30 p.m.] practice which has now been laid down, and which I take it for granted will be followed in the future. Under the circumstances, I would personally advise the hon. member for Herbert, if he will allow me to do so, to withdraw his motion. I am quite sure that the House will understand that he has brought it forward with the very best intentions —with a view to the proper conduct of the business of this House, and that it shall be strictly in order, and, having done that, he has done all that he can seek to do at the present time.

Mr. DAWSON (*Charters Towers*): I may say at once that I intend to support you, Sir, in this matter, because I think that you are absolutely correct. The ruling that you gave the other night, and the statement you have just made, confirm me in the opinion I then held—that you were absolutely correct in the position you took up. I certainly must join my hon. friend, the hon. member for Flinders, in saying that I do think it is rather bad taste on the part of the hon. member for Herbert, seeing the position he occupied in this House a little while ago, that this is the fourth time this session that he has questioned your rulings. I have just risen to say that, while agreeing on broad grounds with the hon. member for Dalby, I think he is mistaken to a certain extent. It is perfectly correct, according to my reading of the Standing Orders, that when our Standing Orders are silent, we fall back upon the Standing Orders and procedure of the House of Commons. But that is only correct to this extent — that when we have a certain ruling given in this Chamber we do not go back to the rulings of the House of Commons. We abide by our own rulings, even though our Standing Orders are silent on that particular point.

Mr. COWLEY: Hear, hear!

Mr. BELL: The Standing Order says where our Standing Orders are silent.

Mr. DAWSON: Yes; but the hon. member will acknowledge that it has been the practice that where our Standing Orders are silent, if we have rulings given in our own Chamber, we apply to them first, before eventually falling back upon the rulings of the House of Commons. That has been the rule here for some considerable time.

Mr. BELL: You are quite aware that the procedure has been defective here on this point.

Mr. DAWSON: Quite so, but I am also quite aware that there is more evidence on the side taken by the Speaker than on the other side. As you, Sir, pointed out a while ago, even this session we have had two precedents created in this particular direction. The principal precedent, I suppose, however, is the one in 1887. The question was then raised by the present Chief Justice on the committee on Judge Cooper's expenses. This procedure was then adopted, and was not even challenged. I think it has been the practice all through in this House that at any time before the committee is actually constituted, it is permissible for any hon. member to move the omission of one name with a view to substituting another name; but that if, after the committee is constituted, any hon. member desires, or the majority of the members of this Chamber desire, to move the omission of any one name and the insertion of another, then it is necessary to give notice of motion in order that members may be thoroughly warned of what is to take place. During the process of the constitution of the committee no such procedure has ever been laid down in this Chamber, and it was during the process of the constitution of this particular committee that the hon. member for Cook moved his amendment. I would like to point out to hon. members that I think the procedure laid down by Mr. Speaker is a very good one. It is a very convenient one, and it leads to the expedition of business, and while doing that it does not do any harm that I can see to private members such as is anticipated, or apparently is feared, by the hon. member for Herbert. An hon. member, when he gives notice for the appointment of a select committee in this Chamber, is bound by our Standing Orders to lay upon the table the names of the members who he proposes shall constitute that committee. Before he does that, he must get the consent of every member whose name he mentions in his motion. If there is any objection by hon. members in this Chamber to any of the names in his motion, the mover of the motion is notified that there is an objection, and there is an alteration made—that is the usual course—with the consent of the hon. member whose name it is proposed to omit and of the hon. member whose name it is proposed to substitute.

Mr. BELL: You say that is what is usually done?

Mr. DAWSON: That is what is usually done. That, I expect, is exactly what occurred in connection with this particular case. It is exactly what occurred in connection with the select committee that I proposed to inquire into the Cambooya election.

Mr. BELL: Do you say it occurred in connection with my select committee the other day?

Mr. DAWSON: I am not quite prepared to say what the hon. member's experience was in connection with his select committee, but I give him my experience in connection with the appointment of select committees—and I have moved for the appointment of more than one. I moved for one this session, and that was my experience.

Mr. BELL: My experience has been exactly the contrary.

Mr. DAWSON: The hon. member has been unfortunate in his experience. There are some unfortunate people who will trip over gutters and fall into the gutter. I have not been in that sense one of those unfortunate individuals, although otherwise I have been. If members are not here prepared to take part in the proposed change, that is not the fault of our Standing Orders, or the fault of any procedure we may adopt in this Chamber, but the fault of the hon. members who are sent here by the country to be here every sitting day and take a hand in all business that may happen to come along. I think the procedure is a good one; it expedites business, and it does not do any harm to any hon. member, not even to those who are personally concerned—the members whom it is proposed to omit or those whom it is proposed to substitute for them. Before sitting down, I would just like to remind hon. members that ever since the Labour party has been in this Chamber, and we have come into conflict with the Chair—which, fortunately, very rarely happened—but on the rare occasions when we did come into conflict with the Chair, there was one lesson that was always attempted to be taught us by hon. members sitting on the other side. That was that we must respect the high and dignified position occupied by Mr. Speaker, and even if we thought he was wrong it was our

bounden duty to show him respect by not disputing his rulings. I hope that hon. members who have been attempting to teach us that lesson will have learned it themselves this afternoon.

Mr. BELL: That certainly does not apply to me, at all events.

Mr. JACKSON (*Kennedy*): I do not rise for the purpose of expressing any personal opinion in connection with this subject, but I would like to read a short extract from *Reynolds's Newspaper* of 7th May, 1899, which bears on the question before the House. This is pretty well up-to-date. I think we do not get the English *Hansard* until the end of the year, so that I cannot quote direct from the House of Commons debates, but this will be sufficient to enable hon. members to form some opinion on the question we are discussing. The incident occurred in connection with the Old Age Pension Committee. A protest was made against the *personnel* of the committee. Sir W. Walrond nominated certain gentlemen, whose names I need not read.

Mr. Bartley suggested the substitution of Mr. Chamberlain's name for that of Mr. Anstruther, with a view to his becoming the chairman of the committee. (Opposition cheers.) It would test the best men on the Government bench to conduct this inquiry efficiently and with success; therefore it was no slight upon Mr. Chaplin that Mr. Chamberlain, who had made this question his own, should be asked to act as chairman. It would be a great blow, not only to the Government but to the country, if this committee failed. He hoped that the Colonial Secretary was not off with the old love of old age pensions, and on with the new love of small houses, and that he would act as chairman of this committee. (Opposition cheers.)

The Speaker having ruled that it would not be in order to move the substitution of Mr. Chamberlain's name for Mr. Anstruther, but only the omission of the latter gentleman's name.

Mr. GLASSEY: But the committee had already been constituted.

Mr. JACKSON: The committee was in process of being constituted then.

Mr. Bartley simply moved the omission of Mr. Anstruther's name.

Mr. Balfour said that, having regard to the great load of responsibility which Mr. Joseph Chamberlain bore already, he did not think that the House could reasonably impose this fresh burden upon him.

Mr. Bartley remarked that his purpose had been served by raising the question, and as he had no desire to omit the name of Mr. Anstruther, he would ask leave to withdraw his amendment.

The amendment was negatived without a division.

Mr. Warner next moved to omit the name of Mr. Chaplin.

The amendment was rejected by 254 to 82, and Mr. Chaplin's name was agreed to.

The names of Mr. Cripps and Mr. Davitt were then added to the committee without opposition.

Judging from that report it appears to me that the custom there is to take the names seriatim.

Mr. BELL: You can move to omit, but not to insert.

Mr. JACKSON: As I said when I got up, I do not intend to express my personal opinion on the matter, as I am not an authority in any way. I came across that quotation in the course of my reading on old age pensions, and I submit it to the House accordingly.

* Mr. COWLEY (*Herbert*), in reply: If no other hon. member wishes to address you on the subject, I wish to say a few words in reply. I pass over the comments of the senior member for Charters Towers and the hon. member for Flinders as to my bad taste in introducing this question. I think it is the duty of every hon. member, no matter what position he may have occupied in the House, to endeavour to conduct the business of the House in a regular and proper and orderly manner. If he is wrong in his contention, then it is for the House to decide. I approach this matter with no personal feeling whatever towards you, Sir, but I bring it forward because I believe that in doing so I am endeavouring to lay down in this House a practice which has been found to be highly beneficial in the House of Commons after hundreds of years of experience. I thank the hon. member for Kennedy very much for reading the ruling which was given in the House of Commons in May last, which showed that even up to the present moment the practice which I advocate is still adopted there. In the few remarks which you, Sir, read this afternoon you mentioned Standing Order No. 67 of the House of Commons as the one upon which the practice is founded, and you laid great stress, as also did the senior member for Charters Towers, upon the words "be added or substituted after the first appointment of the committee." That evidently is the gutter, to use his own illustration, into which the senior member for Charters Towers has fallen. The appointment of a committee and the nomination of the members of that committee are two entirely different things, both in our House and in the House of Commons. In the House of Commons when a member moves for a select committee the practice is to appoint the committee before the names are considered. If the motion for the appointment of the committee is rejected there is an end to the whole thing.

The HOME SECRETARY: That is not our practice here.

Mr. COWLEY: I am just going to show that it is our practice, or very nearly so. The practice in the House of Commons is to move that a committee be appointed, and if that motion is carried then the names are dealt with, and if no notice has been given for the substitution of any other names, the only thing which the House can do, if they think the committee is too unwieldy or that any particular member should not be on it, is to move the omission of the name of that member. They can neither add nor substitute names. The practice in our House, as hon. members will no doubt remember, is exemplified by this: Mr. Bell moves—

1. That a select committee be appointed to inquire, consider, and report upon the management and administration of the Parliamentary Buildings, refreshment rooms, and stables.

2. That the number of members to serve on such select committee be nine; five to form a quorum.

3. That the following members be appointed to serve on such committee, etc.

So that our practice is identical with the practice of the House of Commons, with the exception that they move for the appointment of the committee and nominate the members of that committee in separate motions, and we move them all in one.

The HOME SECRETARY: A very important difference too; the whole thing is there.

Mr. COWLEY: I do not think it makes any difference whatever. A point which the senior member for Charters Towers lays so much weight upon, and which I think you, Sir, also laid great stress upon, is that notice must be given after the first appointment of the committee. Now, the committee must be appointed before a single name is proposed in the House of Commons.

Mr. DAWSON: It is not so here.

Mr. COWLEY: No; but I say the Speaker lays stress on the point that after the first appointment of the committee it is absolutely necessary that notice shall be given. But the hon. member for Charters Towers quoted not only the appointment of the committee, but the actual nomination and election of the members to serve on the committee, and then said, when that is done, it is absolutely necessary to give notice of an amendment. I think the hon. member must see he has fallen into an error there. The appointment of a committee in the

House of Commons has nothing whatever to do with the nomination of the members of the committee.

Mr. DAWSON: Do you say that the nomination comes after the appointment of the committee.

Mr. COWLEY: Yes, the committee is first appointed.

Mr. DAWSON: Well, we nominate before appointment.

Mr. COWLEY: No, our first resolution is that a committee be appointed, and afterwards we nominate the members to serve on that committee.

The HOME SECRETARY: In the same motion.

Mr. COWLEY: Yes, in the same motion, but the hon. member was evidently under the impression that in the House of Commons the appointment of the committee actually meant the election of the members to serve on that committee. But that is not so. To show that my contention is correct, I will read the ruling of the Speaker of the English House of Commons from the English *Hansard* for 1897, volume 48, page 590. Mr. Speaker ruled that the question was not one for the nomination but for the appointment of the committee—the nomination would be subsequently moved. An hon. member raised the point, and the Speaker ruled he was not in order in doing it then, and must wait until the nomination of the committee was under consideration.

Mr. BROWNE: All tend to the same.

Mr. DAWSON: I gave notice of the appointment of the committee. My motion was not nomination.

Mr. COWLEY: It is all one. It is in three subsections. In the House of Commons it is two distinct motions. That is the only difference. On the 14th July a motion was moved for the appointment of a select committee consisting of twenty-one members. It was afterwards proposed the committee should consist of all the Scotch members. That was defeated. Then they proceeded with the nomination. Then the next question proposed was that certain members should be members of that committee. Dr. Clark proposed to substitute the name of Sir Charles Dalrymple for someone else. The Speaker ruled—

> It is not competent for the hon. member to move without notice the insertion of another name although he may move to omit any particular name.

I think I have shown clearly that the appointment of members is one thing and the nomination is another, and that the practice laid down in "May" is distinctly in accordance with the Standing Orders.

Mr. BROWNE: Their practice is different to ours.

Mr. COWLEY: The only difference is that there are two separate motions.

Mr. BROWNE: The only difference is that they require notice of amendment, and we do not.

Mr. COWLEY: We require notice of amendment, too. The hon. the senior member for Charters Towers and the hon. member for Flinders talked about different rulings being given, and laid down that we must abide by our own rulings, which, they said, had been given twice this session. I submit that no ruling has been given on the question this session.

Mr. BROWNE: I did not say that.

Mr. COWLEY: I am quoting the hon. member for Charters Towers.

Mr. DAWSON: I said that before consulting the procedure of the House of Commons we should exhaust our own.

Mr. COWLEY: The hon. member said we must abide by our own ruling. The only ruling which has been given was in the case in which the hon. member was interested, in which it was proposed to omit the name of the hon. member for Flinders for the purpose of inserting the name of the senior member for Charters Towers. On that occasion no ruling was given. I am drawing a distinction between a practice and a ruling.

Mr. DAWSON: Does not silence give consent?

Mr. COWLEY: Certainly not, not always. A mistake may occur, and unless attention is drawn to it, it cannot be taken as a precedent; but when attention is drawn or a ruling has been given, I maintain that a precedent is formed; but it is quite possible——

Mr. MCDONALD: What about 1887?

Mr. COWLEY: No ruling was given then. It was an entirely different case from this case. There was no motion at all to consider the appointment of a select committee on that occasion.

Mr. MCDONALD: Yes there was.

Mr. COWLEY: The whole thing was moved as an amendment.

Mr. DAWSON: There were two amendments.

Mr. COWLEY: Be that as it may, I say that the only ruling given is the ruling I quoted as given in 1895. Subsequently to that, or just prior to that, a committee was asked for by the hon. member for Enoggera, Mr. Drake. It was proposed to substitute Mr. Grimes's name for that of Mr. Phillips. Leave was asked and granted. In 1898 also another case arose. The late Premier (Mr. Byrnes) desired to amend a motion he had given notice of *re* the appointment of members to serve on the Standing Orders Committee. Mr. Groom was omitted from the notice given, and the Premier came to me and asked if he could substitute the name of the hon. member for Toowoomba on the committee when he moved the motion. I told him he would have to make the motion not formal and get the leave of the House to substitute Mr. Groom's name for some other hon. member's name. He did that and Mr. Groom's name was substituted for Mr. Bell's. I contend that the practice of our own House, as far as a ruling has been given, is clearly in accordance with my contention, and there is not the slightest doubt that the universal practice of the House of Commons is never to allow an amendment to be proposed to omit the name of any one member to serve on a select committee with the view of inserting another. I do not think the hon. member can show a single instance in which it has been done. The hon. member for Dalby has quoted precedents from, I think, 1860 to 1884, and the hon. member for Kennedy has quoted a precedent which happened this year. So the information with regard to precedents are all in favour of the contention I make. I know many hon. members may think that I ought not to have moved this; but I assure you I have done it purely and simply to establish a practice and lay down certain lines of practice. I believe that the practice followed by the House of Commons, after centuries of experience, is a good, proper, and right practice, and I believe that if we maintain it, as we have done since 1895, we shall be acting in the best interests of this House. I believe, Sir, that the interests of the minority especially will be served.

Mr. BELL: Hear, hear!

Mr. COWLEY: I believe, Sir, that it will rebound on us if we do not watch and carefully guard these privileges we have, for it is a very great privilege indeed for any hon. member to feel assured that once he is nominated to serve on a select committee no one can move to omit his name and insert another without giving due notice. If that is done he can defend his nomination; if that is not done hon. members may easily see how advantage may be taken of it. The House

5 p.m.

and hon. members generally may be lulled into a sense of false security, and when the motion comes on the whole of the names may be struck off and other names substituted. I think, with all due deference to the Home Secretary, whose opinions I respect very highly on these matters, it is very desirable indeed that we should maintain the practice which has been in existence here since 1895, and which has also been in existence from time immemorial in the House of Commons. I leave this matter to the House. All I can say is that I shall not be deterred by anything which may be said by any hon. member as to the question of taste. That is a question I can judge for myself. I shall not be deterred on this occasion, or on any other occasion when I think it my duty as a member of this House, to contend for the rights of the minority, whether it is against the Government or against the Chair, if I believe that in doing so I am acting constitutionally, regularly, and legitimately.

Mr. DUNSFORD (*Charters Towers*): It seems to me a remarkable fact that what the hon. member for Herbert complains of as having occurred on the 28th ultimo occurred also when he was present on the 21st, just a week before.

Mr. COWLEY: I was not present on that occasion. It was told me afterwards.

Mr. DUNSFORD: The hon. member was present and voted, and the hon. member for Dalby also voted. I can read the division list to prove my case, and I say this shows it has been found convenient for this House to do this thing, and on this occasion it was very convenient. On the 21st September, a week before what the hon. member for Herbert has called in question occurred, my colleague, the leader of the Opposition, moved that a select committee be appointed to inquire into and report upon the alleged theft of certain electoral claim forms in August last from the Pittsworth courthouse, in the Cambooya electorate, and he submitted the following as members of the committee—namely, Messrs. O'Connell, Moore, Groom, Browne, and the mover. After debate the hon. member for Gympie, Mr. Fisher, moved that the question be amended by the omission of the word "Browne" and the insertion in its place of the words "The Hon. E. B. Forrest." The debate continued on that, and then the question that the word proposed to be omitted stand part of the question was put and negatived, and the question that the words proposed to be inserted be so inserted was put and passed. Then on the question for the appointment of the select committee as amended, the division took place, and the name of the hon. member for Herbert appears amongst the "Noes," while the name of the hon. member for Dalby appears amongst the "Ayes." This is clear proof that it has been the practice and clear proof——

Mr. BELL: Clear proof that it was done on that particular occasion.

Mr. DUNSFORD: This is not the only case, but this is one of the most recent occasions when it was found convenient, and it proves the contention of the Speaker that it has been the practice of the House. I think no hon. member of the House should be or continue to be a member of a committee if the majority of the House is opposed to his being or remaining on that committee. I think that is the common-sense way of looking at the question, and it has been the practice, and I think the House will wisely decide that it shall continue to be the practice.

Mr. COWLEY (*Herbert*): With the permission of the House, I would like to make a personal explanation. On the occasion referred to by the hon. member I was not present during the discussion. I simply came in just as the division took place. I was not here when the discussion took place on the amendment. I was informed of it immediately afterwards by the hon. member——

Mr. GIVENS: Then you voted on something you did not know about.

Mr. COWLEY: I voted on the question of the appointment of the select committee, not on the substitution of one name for another. Due notice had been given of the appointment of a select committee, and I had made up my mind after seeing the notice.

The SPEAKER: I desire to say, in reply to the hon. member for Herbert, that I disagree with the view that the practice of the House of Commons is similar to the practice of this House in regard to the appointment of select committees. The hon. member has argued that there is no substantial difference between the practice of the two Houses; but I contend that there is a cardinal difference. I am also quite opposed to his interpretation of the House of Commons Standing Order No. 67. The hon. gentleman has said that no case parallel with the case under consideration had occurred in this House. I cited a case that occurred in 1887 which was strictly parallel with the case now under consideration. The decision of the House then was in strict accord with the decision of the House on the 28th ultimo.

Mr. COWLEY (*Herbert*): Will you allow me, by way of personal explanation, to say one word in reply to your last statement? You are labouring under a misapprehension when you say that I stated that no parallel case had arisen; what I did state was that no ruling had been given on the question. That is the difference.

The SPEAKER: I understood the hon. member to state that no ruling had been given, and, further, that no parallel case had been cited. That is what I took exception to.

Question—[*Mr. Cowley's motion*]—put and negatived.

MOTION FOR ADJOURNMENT.

CAMELS IN THE SOUTH-WEST.

The SPEAKER (Hon. A. Morgan, *Warwick*) announced that he had received a letter from the hon. member for Balonne, to the effect that he intended to move the adjournment of the House on a matter of urgent public importance—namely, the introduction of camels into the south-western portion of the colony.

Not less than five members having risen in support of the motion,

Mr. STORY (*Balonne*) said: I beg to move the adjournment of the House to call attention to a definite matter of urgent public importance—that is, the introduction of camels into the Cunnamulla district. The Home Secretary, in replying to my questions this afternoon, assured me that he was in sympathy with us in this matter, and I do not think it will be necessary to talk at very great length upon it—only as far as the discussion will tend to develop some means of dealing with the matter, for it seems to me altogether beyond the control of the department over which the hon. gentleman presides. In 1890 a number of camels came to Cunnamulla, shortly after a great flood. At that time no teams could possibly travel, and they were probably the salvation of the district, because we were on the verge of starvation. When I heard that camels were again coming to Cunnamulla, I thought it was a repetition of 1890, only instead of being a matter of flood, there was a drought in that district. But a few days ago I got a telegram from the chairman of

the Anti-Camel League in Cunnamulla, which puts the matter in a different aspect. The telegram read—

Arrangements completed regular employment four hundred camels Afghans leased paddock and house for permanent occupancy Can you get adjournment House to ventilate grievance Reply paid.

Now, I appreciate the difficulty the Home Secretary has had in dealing with this matter, because it is not necessary to license any carrying animal, either a horse, a bullock, or a camel. The vehicle in which goods are conveyed has to be licensed and the notice of license painted on the side; but you cannot paint any such notice on a camel or a packhorse. Hitherto, the matter has been considered of very little moment, because these camels have not competed with our own carriers, but now there are a number of camels in the Cunnamulla district, and they and their owners have taken up a permanent occupancy there. I want to point out that they are not there to serve persons in the time of drought or flood, but they really are there as an ordinary carrying company. I wish to show that they are not necessary, and, with the help of some hon. members who have the same ideas, I wish to get the Government to take some action that will prevent these animals going where they are not necessary. If there were no teams, or if the teams had been charging an exceptionally high rate for carriage, then there would be some argument in bringing these camels into the district; but such was not the case, and I have two telegrams here that will prove my contention. I have one from a man named Johnson, at Cunnamulla, which says—

I was personally refused hundred pounds Boorara wool loading which was given to camels.

Now Boorara is not a very great distance from Cunnamulla. I have another telegram from the chairman of the Anti-Camel League, which states—

Chamber Commerce allegations carriers would not engage carry wool utterly untrue loading refused. Boorara Currawinga district pleased with your action. No truth diversion of trade borderwise.

That was one of the arguments used: That if the camels did not carry to Cunnamulla they would carry to Bourke—that wool from the station in this district would go to Bourke.

Mr. KERR: There is no truth in that.

Mr. STORY: Even supposing that persons who owned camels took wool to Bourke, I do not see that that is as objectionable as having a number of camels in this district to compete with the ordinary carriers, who for years and years past have done their work thoroughly and well. There has been no complaint against them; there has been no scarcity of carriers, and the rates have always been fair. The rates at present from Cunnamulla to Thargomindah are £3 10s., and from Charleville to Thargomindah £4. This is the same rate the camels carry at. It is really a matter of competition between camels and ordinary teamsters, and if the competition was in any way fair, it would not be judicious for the Government to interfere; but the competition between camels and teamsters is altogether unfair. For one reason, owners of camels pay no license fees, and they travel a great distance without water, and the men leading them are paid the lowest rate of wages. I have been told that the Afghans in charge of camels are paid £4 a year—of course I have only been told that—I do not know it of my own knowledge. This business really means introducing a number of Afghans into the district who were not desirable residents there. I have been blamed at times for supporting the employment of coloured labour in the sugar districts, but I have always regarded that labour as absolutely necessary for that industry, considering the peculiar conditions of the country, but no man who knows anything about the West can use the same argument with regard to camels and Afghans. They are not necessary or desirable at all. They do not mingle with our own people, and they are coming into competition with men—and good men—who have been working there for years, when times were far harder and water was much scarcer than it is now; when artesian water was not known, we did not want any camels there at all. Our roads were longer and places were farther apart, and carriage in every way was very much more difficult to manage than it is now. In all those hard times we never required the help of camels, and I assure this House we do not require them now at Cunnamulla. The dissatisfaction about these camels coming to Cunnamulla is very widespread. Some action has been taken by the divisional board. How operative it is I am not able to say, but at any rate they have made a virtue of necessity and passed a by-law, which I suppose is not confirmed yet, but you can see from its tenor that they are determined, if they can do so by any possibility, to stop the permanent employment of camels at Cunnamulla. This is the by-law—

BY-LAW No. 13.

1. That no person shall conduct, lead, drive, or travel, or cause, or permit, to be conducted, led, driven, ridden, or travelled any camel upon the Cunnamulla Town Reserve, or upon any road, highway, thoroughfare, or place within the limits thereof, or permit, or suffer any camel to be upon the Cunnamulla Town Reserve, or upon any road, highway, thoroughfare, or place within the limits thereof, except between the hours of 12 o'clock, midnight, and 5 o'clock a.m.

If that by-law is passed it will not be very necessary for the Government to take any further action, because, if they can do their business between the hours of 12 o'clock at night and 5 o'clock in the morning, both the people who employ them and the people who receive the loading will have to stop up pretty late.

Mr. TURLEY: That would only apply to Cunnamulla, not to the other towns in the district.

Mr. STORY: Cunnamulla being the railway terminus, they are not likely to go to the other towns. They go to the railway terminus for loading, and they take loading there. If they only took it far out West, where it is impossible for teams to get, there would be very little objection taken, but they go there simply as competitors to take loading wherever they can get it. This afternoon I received the following letter from the chairman of the Anti-Camel League:—

Cunnamulla, 8th October, 1899.

I am in receipt of your favour of the 4th instant, and sincerely thank you on behalf of the Anti-Camel League for the action you have taken in the matter and for your expressions of kindly sympathy. It seems strange and surprising that no legislation has been attempted to control the traffic by camels.

It appears unreasonable to suppose that trains of animals from fifty to 100 in number, using the reserves and roads of the country, driven by objectionable aliens, can be allowed to oppose and compete with our own law-abiding countrymen without the slightest control. These animals have been worked in the other colonies for some years, and it is only reasonable to suppose that they must be under some legal supervision. Can no information be obtained from them on the subject? Camels being animals, how is it they are not protected by the Cruelty to Animals Act? If they are not animals in the eye of the law let them be declared vermin and dealt with as such. Camels in cases of absolute expediency such as you refer to—

That was in the floods—

are no doubt useful, but no such necessity exists now. If they have come to stop, which we believe they have, it means ruin and disaster to the carriers and the trade of this town, and our only hope is that the Government

will be able, if not to exclude them altogether, certainly to put them under legal control. Wishing you success in your endeavours in this connection,

I remain, &c.,

G. H. WILDIE.

I cannot possibly end my speech better than with that letter.

* The HOME SECRETARY (Hon. J. F. G. Foxton, *Carnarvon*): The hon. member has truly said that this is a somewhat difficult matter to deal with, and it is one which has many phases. On the one hand it may be argued on the lines adopted by the chairman of the Anti-Camel League in his communication to the hon. member for Balonne, and which the hon. member has just read to the House. That sums up pretty well the case for those who are opposed to camels coming to our railway stations—at Cunnamulla or in any other part of the colony. Then, on the other hand, we have the view taken, perhaps naturally, by the Brisbane Chamber of Commerce, which waited upon me to-day in reference to this matter. They represented that unless camels are allowed to bring loading to Cunnamulla, that is to say, unless no restrictions are placed upon them by legislation or otherwise, it will mean the loss of a considerable amount of trade in that district, and a considerable amount of carriage on our railways. That view is also held by those who own the stations, and also, I believe, own the camels, for I am informed that the camels are owned by the pastoralists in the south-western portion of the colony. As against that loss of trade, it is argued again, on the other side, that if camels will come, whether driven by Afghans or Europeans, and they obtain a considerable quantity of loading, the Railway Department will lose the carriage on the horse-feed which is required by the ordinary teamsters on the up journey. Of course hon. members will see from all this that there is a good deal to be said both for and against. I may mention that in view of what has taken place I have asked the Railway Commissioner to give me his views as to how the traffic on the railways will be affected. He is, perhaps, the best authority we can get on that particular point. I suppose there is nobody in this Chamber, and there are very few persons in the colony, who do not deprecate and dislike the driving of these camels by aliens. Undoubtedly that, to my mind, is the most objectionable feature of the whole thing. I cannot bring myself to view carriage by camels, quite irrespective of the question of who the drivers are, as an evil, because one may just as well raise the same argument against any other cheap mode of carriage. As it was put by the Chamber of Commerce to me—one may use the same argument against carriage by railways.

Mr. McDONALD: Do you think the camel is a better means of locomotion than the horse?

The HOME SECRETARY: In some cases undoubtedly it is. I believe it is an indisputable fact that the camel can carry under circumstances where it is impossible for teams to carry. Then, if it is a question of whether we must either have carriage by camel or lose trade, putting aside, of course, the question of who the drivers may be, I say it is distinctly to the advantage of the colony that those who wish to employ camels should have a free hand. I am also credibly informed that white men can drive camels just as effectively as the Afghans.

Mr. KERR: They do it in Western Australia.

Mr. HARDACRE: Is it the camels they require, or only the cheap Afghans?

The HOME SECRETARY: Of course I do not know. Suppose, for instance, Afghans were employed in driving teams, I take it that would be just as objectionable, if they were only paid £4 a year—though I understand, as a matter of fact, they get £6 a year. But that does not make much difference. They would be just as objectionable as if they drove camels. They would be under-cutting the living rate of wage, which, of course, is objectionable. If it is a fact that camels can be employed when it is impossible to employ teams, and that if they are not so employed we are going to lose our trade, then it is a distinct gain to the colony that they should be so employed. Now they are employed in New South Wales, and whether we are dealing with a question of railway freights or with a question

[5·30 p.m.] of feeders to railways, it behoves us as a community to see that we do not prohibit anything which will drive any portion of our trade into the other colony. This, of course, is quite irrespective of the employment of Afghans. I have made inquiries into this matter, and I understand that the figures mentioned in the question of the hon. member for Balonne, which I answered this afternoon, are considerably exaggerated. One account which I have gives the number of camels that have come into the Cunnamulla district as ninety, and another as 100. The correspondent of the hon. member asked the question whether camels were not animals within the meaning of the law. As a matter of fact, they are not mentioned in any of the three Acts to which my attention has been called in the petitions I have received. The animals which are dealt with in those three Acts—that is, the Impounding Act, the Carriers' Act and the Cruelty to Animals Act—are limited by the interpretation clause. The only animals to which the Carriers Act applies are horses, cattle, sheep, pigs, calves, lambs, goats, and dogs. But whether camels are or are not mentioned in the Carriers Act is not of very great importance, because as the matter stands at present the licenses which can be issued under it are licenses for vehicles, so that if we are going to introduce legislation which will provide for the licensing of carriers who employ other means of carriage than vehicular means, we must make it applicable not only to camels, but also to mules and other pack animals. That seems to me to be only reasonable, because what will apply to one with regard to the question of carriage will apply to the other, whether they be pack mules or pack horses that are employed for the purpose of carrying for hire. Licenses are apparently granted as a matter of course, and the fee is only 2s. 6d. per annum. Again, in the Cruelty to Animals Prevention Act, which was passed before there were any camels in Australia, camels are not mentioned. If I remember rightly, the first occasion on which camels were introduced was when the Burke and Wills expedition was about to start from Melbourne, and this Act was passed as far back as 1850. The animals to which the Act applies are any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, or goat, or any dog, cat, or other domestic animal. Turning to the Impounding Act we find that "cattle" are defined as bulls, cows, oxen, heifers, steers, and calves; that "horses" are defined as horses, mares, geldings, colts, fillies, asses, and mules; that "sheep" are defined as rams, ewes, wethers, and lambs; and that "animals" are said to mean cattle as defined, horses as defined, sheep as defined, and goats and swine. Those are all the animals to which the Act is applicable. Hon. members will see that in none of those three Acts are camels mentioned. It is therefore quite impossible for the Government to do anything by way of administration. Apparently there is no law which governs the employment of camels for carriage, for hire, or in any other

way, and if we legislate so as to bring them under the Carriers Act it will certainly be necessary to consider the whole question of pack animals; and for that purpose I am now having inquiries made with a view to see what legislation is really necessary, and in order that we may not omit to touch upon any particular point which it may be desirable to deal with, not only in regard to camels, but also in regard to other pack animals. The by-law which has been passed by the Cunnamulla Divisional Board has been received and revised by the Attorney-General. It is not quite in order, and it will be forwarded to-morrow to the board for their approval of the alterations which it has been found necessary to make therein in order to bring it into line with the law. It has also been suggested that we should get the opinion of the Railway Commissioner as to how the employment of these camels is likely to affect the trade of the railway. I think it it desirable that we should not do anything in a hurry or in a panic. As to the employment of camels interfering with teamsters, who are citizens in our midst, we must sympathise with those teamsters, but when it becomes a question whether we shall sacrifice the trade of the colony, or of any portion of the colony, for any particular class—a class which may ultimately find it convenient to become camel-drivers themselves—it is desirable that we should proceed with due caution, and not legislate in what may be called a panic.

Mr. HARDACRE: Would it not be as well to confine the camels to a limited area?

The HOME SECRETARY: I do not know; I think the legislation should be general, but it is a point worth considering. The whole thing is surrounded with considerable difficulty, and with every desire to see full justice done to those who may be affected by the introduction of camels, it is necessary that the Government should proceed with caution in the matter.

* Mr. HOOD (*Warrego*): I think we should look a little further than the hon. member for Balonne has gone for the reason why these camels have been introduced into that district at the present time. I believe they came to Cunnamulla owing to the railway tariff which has been lately fixed by the Commissioner for Railways. Just to take one class of goods as an illustration, I may mention that third class goods are carried to Charleville for £11 11s. 8d., and to Cunnamulla, which is 120 miles further, the rate is £8. There has been no trouble in getting goods taken out west from Charleville for years past. There are any number of carriers on the road, and they are doing the work well and at very reasonable rates; but some of the station-owners and residents further out—away up Adavale and further north—have made inquiries, and find that by carrying their produce on the railway, 120 miles further south—that is to Cunnamulla—they can save about £2 per ton. The camels have come to fill this gap, which is a very dry track, where it is impossible to take teams between Cunnamulla and Adavale. It is a time of the year that the camels are idle, and they have been sent to take this loading. I am glad the Minister is going to look into the matter. There is not the slightest doubt that it is the absurdly low rates which have been given to secure the trade of a few border stations which have brought the camels there, and they will stay there unless you wipe them out in some other way. I think that in some places they are a great boon. In the far West the rabbit-proof fences could not be kept in order but for them. The boundary riders, overseers, and inspectors ride camels to do their work. They could not do it otherwise. If these men, without any training, can use them, there is nothing to prevent the stations from employing white men to work them if steps are taken to prevent the Afghan drivers, who can be got for £4 or £5 a year to do this work. If these men are prevented from driving, there is very little danger of the camels coming in and interfering with the teamsters.

HONOURABLE MEMBERS: Hear, hear!

Mr. McDONALD (*Flinders*): I think the remarks of the hon. member just about fit the question. If you take away the coloured labour it will about fix the matter. My opinion is that the reason the camels have come is that stations can get this Afghan labour much cheaper—for £4 to £6 a year—than you could get white labour. One does not imagine you are going to employ white men at that rate. It is exactly the same question as led to the employment of kanakas in connection with the sugar industry. It is because he can be got to work so much cheaper than the white man.

The SECRETARY FOR AGRICULTURE: And reliable.

Mr. McDONALD: If the hon. member likes to put it, and more reliable. The hon. member for Warrego stated that the reason the camels had come over was because this is an off season where they are usually employed, and that it was quite probable they would not stop long. I have come to a very different conclusion. According to the report of the meeting of the Chamber of Commerce held yesterday, which is reported in the papers to-day, it must not be supposed they have only come temporarily, but have come to stay.

Mr. LEAHY: Which of the members said that?

Mr. McDONALD: I will read the report. Mr. Phillips, Messrs. Gibbs, Bright, and Co.'s representative——

Mr. LEAHY: He is a Brisbane man.

Mr. McDONALD: Yes; the matter came up at the meeting of the Chamber of Commerce yesterday, and this gentleman, who represents the firm that owns the camels, I believe——

Mr. LEAHY: No.

Mr. McDONALD: If they do not own the camels they are having their goods carried by camels at present. He distinctly said that his firm represented a large number of the pastoralists in that part of the colony, and that the camels have practically come to stay. He went on to say—

> That, although camels were absolutely necessary only in times of drought, it was not to be expected that they could be put on in bad seasons and taken off in prosperous ones. Camels were very expensive animals.
>
> Mr. Carter: Bullock transit is cheaper, is it not?
>
> Mr. Phillips said it was not a question of cheapness, but of certainty. By employing camels the squatter could be certain of getting his wool to the port of shipment at a stated time, and also of getting back the station supplies at shorter and more regular intervals.

I am very pleased to see that the question was eventually brought up by Mr. Phillips's motion, and that it was defeated by a very narrow majority. I also see that the chamber is to wait upon the Government to try to influence it in some way not to introduce any legislation which will hamper the working of camels in the Western districts. The camels are not going to remain in the Cunnamulla district. If it is found that firms can employ them much more profitably to carry their goods in that district, they are going to be extended to other portions of the colony. By that means we are going to have hundreds of men, who have built up homes and toiled for a considerable time in the Western part of Queensland to make a living, thrown on the unemployed market, simply because these men can be got to drive camels at from £4 to £6 a year—a wage which white men cannot live upon. I look upon it as a very grave danger. It is a question whether the camel is superior to the horse or the bullock.

In certain dry tracts of country a camel is good, but if there is the least shower of rain it cannot travel at all.

Mr. STORY: They will not go through water. They can travel through mud.

Mr. McDONALD: I have seen camels and horses. I have seen them working together, and I have always been led to believe that, in any kind of wet weather, the camel is almost useless owing to the way it slips about over the soil. In my opinion the horse is a much more useful animal. My real objection to the camel coming is that as long as they are driven by these coloured aliens—these men who will work for £4 or £6 a year—you will never induce those who are employing camels at present to pay white drivers white men's wages. I think something ought to be done. I am pleased the Government is going to make some attempt to introduce legislation to regulate the traffic. Personally, I should like to see the traffic wiped out altogether, because I have always had a strong feeling that when the black man comes, especially at a cheap rate, he is likely to do the white man a great deal of harm. We have seen the same thing in connection with the sugar industry, and we are going to have it tacked on in connection with this industry. I hope the House will not allow that, and I hope that when the Government does come down with legislation it will be restricted. Again, the treatment of camels engaged in carrying is anything but edifying, and anybody who has seen them being loaded must come to the conclusion that it is something horrible to see the unfortunate state of a large number of these animals. I have heard of cases—though it may be considered to be stretched a bit—where pieces of canvas have been almost sewn on the backs of the animals to hide places where the skin has been taken off, owing to the chafing that has taken place. The horrible and wretched state in which some of those animals are after their loads are taken off is enough to sicken anybody, and make one opposed to the carrying of goods by that particular method. From letters I have seen in connection with carrying by camels in the Cunnamulla district, it appears that the state of affairs is no better there than in other places where camels are extensively used. In conclusion, I wish again to reiterate that I fear the introduction of camels and black drivers, because it will be argued again that the black man is the reliable man, and will be given the preference over the white man.

* Mr. LEAHY (*Bulloo*): This question, it seems to me, is not nearly so simple as it appears at first view.

The HOME SECRETARY: Hear, hear!

Mr. LEAHY: I shall watch with interest the legislation which the Government will introduce for the purpose of settling this question. They have rather a large order, it appears to me, because this is not a question of Cunnamulla or Thargomindah, but a question of cheap labour all over Queensland.

HONOURABLE MEMBERS: Hear, hear!

Mr. LEAHY: And if it is dealt with at all it may as well be dealt with on practical lines. There is no use dealing with it from a parochial point of view; I think it must be dealt with generally, and it is just as well to lay down that principle in the first instance. The camel is unquestionably a useful animal, and in certain seasons in the western portions of Queensland and New South Wales and in South Australia it has been used for many years past, and in the Northern Territory of South Australia it has been employed in districts nearer the coast than the districts where it has been employed in Queensland, and there never was any row in the chamber of commerce about the employment of camels as long as they traded from New South Wales; but since they began to trade from Queensland and take supplies from Cunnamulla, a row is got up about the use of camels which has been tolerated in the past. I say that if it is an evil now it was a greater evil when they were trading from New South Wales than from Cunnamulla, because the State should have some gain as far as the matter of £ s. d. can compensate for what some people think no monetary gain can compensate for. I think at present there is some reason for the camels coming to Cunnamulla, because the season is the worst ever known in the district, as any person like the hon. member for Balonne, who knows the district, will say. But though at present there may be some excuse for their employment, I would be sorry to see them established in the colony as a permanent institution, and I do not think they will. Four or five years ago they brought wool to Charleville and took supplies back for the stations, and then disappeared, and I think their employment will be regulated to a greater or less extent by the seasons. When it is absolutely necessary to employ them on account of the season, they will prove very useful, and when the seasons become favourable the camel invasion will entirely disappear. The preference in the matter of loading depends on a great many things, and as far as Cunnamulla is concerned it hangs on a matter over which neither this Parliament nor the Parliament of New South Wales has any control, and that is the rate of carriage by river on goods being carried between Bourke, Adelaide, and Melbourne. The Commissioner for Railways in New South Wales had to make the freight to Bourke such as to compete with the rates for traffic which would go by river, and that is what caused the low rates, and if the Commissioner for Railways in Queensland wants to secure the South-western Queensland traffic he must make the rates such as will compete with the rates at which goods are carried by river between Bourke and Adelaide. If legislation is to be introduced on this question it must not be legislation to restrict the use of camels, because they are useful animals in certain places at certain seasons, but it must be general legislation dealing with the question of cheap and reliable labour throughout Queensland. If that is done the camel will disappear except in those districts—those dry stages—where the rate of carriage will be such as to allow of the employment of white men to drive the camels.

Mr. FISHER: Would you support that?

Mr. LEAHY: Of course I would support it. Why does the hon. member ask me? Does he think I am of the wobbling class to which he belongs himself? Can he get up and state where I said I would do a thing and did not do it in any single case? I think it would be a good thing it we could do away with cheap labour in this country to that extent, at any rate. I think it is an evil the magnitude of which we cannot properly measure. I think at the same time to legislate against camels would be an evil also, because camels if properly used are animals of good service in this country in certain districts at certain seasons. If there is any scheme which can be brought forward to settle the question on a proper basis for all time the sooner we make a start the better and not be talking about it year after year.

Mr. DUNSFORD (*Charters Towers*): I am somewhat surprised that during the discussion of this important matter hon. members who may be anti-federalists have not charged this evil of the camel to federation, as it seems to me now to

[7 p.m.]

be the custom to charge every evil that comes along to federation. It is also surprising to me that the Government—particularly those members of the Government who have spoken on the matter—have not desired to postpone this question in order that it might be considered by the Federal Parliament. Neither of these events has eventuated. There is no doubt that the matter is a very important one to a large section of the community—to the citizens of the south-west, and indirectly to the colony at large. When we know that a petition has been prepared by many business people in this district we must come to the conclusion that it is a matter worthy of our consideration otherwise these people would not have signed this petition. I have not made up my mind whether the camel is a good or a bad animal, from a Queensland standpoint—whether it is a cheap and useful animal. From a sanitary point of view, and from a point of view with regard to the colony, there are many sides from which we might consider the camel. Certainly the camel might be cheap and easy to a syndicate comprising a number of squatters, who could get this extra cheap labour to drive these camels and thus bring about undue competition. These animals might benefit them to a certain degree; but we should be careful not to narrow ourselves down to the pounds, shillings, and pence point of view; we should look at the matter through different spectacles. If the employment of these camels means the employment of Afghans, cheap labour, and a monopoly of the carrying trade, all these things will certainly do injury to the carriers and the business people in the districts mentioned; because we know that the carriers earning money in these districts spend it in those districts; they pay fair prices to the business people, and they so encourage the settlement of white people on the land, whereas the Afghan, who only gets a very small wage, spends as little as possible in these districts. Then our own carriers do not confine themselves to the carrying business, but a large number of them have settled on the Western lands, and they are a class of people we ought to assist in that way. I say this because the Home Secretary said the prohibition of these camels might lead to a loss of business in these districts. I think he was confining himself to the mere matter of pounds, shillings, and pence aspect of the question, because he also pointed out that New South Wales might gain a certain amount of trade if we did not permit these camels and the Afghans to remain with us. Well, all I can say is that, if New South Wales is foolish enough to adopt a suicidal policy, and employ Afghans instead of white men, we should not be so foolish as to follow in her footsteps. In this connection, while a certain number of individuals may reap an advantage, the colony as a whole will indirectly be at a disadvantage. The hon. member for Bulloo said this opened up the whole question of the employment of alien labour. Well, so it does. If it was made a question of cheapness, we ought to have absolute free trade in labour throughout the colony, and absolute free trade in every business. To be consistent, hon. members might as well say, "Let us get cheap members of Parliament"—"Let us get Chinamen or Afghans to sit here." That might be said all along the line. "Let us get the cheapest miners —Japanese—or men from the Malay Peninsula." Parsons might also advocate absolute freetrade in the pulpit, and the Press the same. But we can't go on these grounds. It is not wise for British-speaking people to legislate in this direction. We might contend that we are cosmopolitan, and say as Tom Payne said—

> The world is my country and to do good is my religion.

But we cannot do this sort of thing in practice. We should only welcome these people on the same standard of civilisation as ourselves, and these Afghans should not unduly compete with these carriers in the business which they follow. That is where the whole question comes in. As to camels themselves, we can hardly legislate for their prohibition. We have legislated against the rabbit and that pest has increased, and probably if we legislate against the camel, that genus will also increase. Where we have attempted absolute prohibition we have failed, but we may have regulations on the subject. It might be wise in drought-stricken districts, where the ordinary carriers cannot be obtained, to employ these camels; but if Queensland is so far better off now than it was in days gone by in the matter of roads and water facilities, I don't see that these camels are at all necessary. I am given to understand that horses and bullocks can do all the carrying——

Mr. W. HAMILTON: In that district.

Mr. DUNSFORD: Yes, yet some people may say we are merely filling a want not supplied by any other class of animal. It seems rather surprising that camels have not been included in the list of animals in such Acts as the Cruelty to Animals Prevention Act, the Carriers Act, the Impounding Act, and other statutes. It is rather an injustice to the camel that they have not been included in the lists given in those Acts. I think this matter is worthy of full consideration. I want to know something about the habits of the camel, and whether it is cheap or only nasty, but so far the information we have received from the hon. member for Balonne and other members representing Western districts is very meagre indeed. Certainly it is not as full as a should like, but if it is a case of a survival of the fittest, and it can be proved that it will be an advantage to carriers to drive camels themselves instead of using horses and bullocks, then the matter assumes a different aspect. But if it means that we are to have Afghan drivers, then most certainly not only should the camel drivers disappear, but the camels also.

Mr. W. HAMILTON (*Gregory*): Like other hon. members who have spoken, I think this camel question is a very serious one from many points of view, especially from the point of view that the camels are not going to stop at Cunnamulla. Once they are allowed to get a footing in the colony it is only a matter of a short time before they will be found at the termini of all our railways, unless something is done to prevent their increase, and if that happens they will do all the carrying in Queensland. So that they threaten to wipe out the carriers, who are a very desirable class of people, and who have done as much to develop the resources of the interior as the pastoralists or anybody else, because without carriers pastoralists and others could not carry on their business. The advent of camels to Bourke wiped out the white carriers in that district, and they may do the same thing here. But they threatened not only to wipe out the carriers, but also those people who are dependent upon carriers, such as blacksmiths, wheelwrights, harness-makers, and others. This really settles down into a question of alien *versus* white labour. White carriers spend all they earn in the district where they work, but these blackfellows will not spend all they earn there, and even if they did, it would not amount to much, seeing that they are paid only £4 per annum. The hon. member for Balonne has stated that it is not a question of cheaper carriage, as these men were charging as much for carriage as white carriers. A white carrier would get £50, £60, or £70 a year, so that the owners of the camels

must get a large profit from the employment of Afghans at £4 a year. Another reason in favour of the by-laws that are asked for is that if a team of camels were going down Queen street there would be a lively time among the horses. When camels come to a place where there are horses there is a stampede among the horses. I have seen horses clear off at places where they never saw the camels, but had only smelt them at a distance, and from that it may be inferred that the introduction of camels where horses are employed is a danger. As to the statement that you cannot get white men to drive camels, that is not true. I have seen white men in Western Australia driving camels, and I know that there are men in the bush in this colony who would drive any camel or any mortal thing in the shape of an animal. Then there is the question of cruelty to animals. White men would be prosecuted and punished if they worked a horse with a sore shoulder, but I have seen camels with red raw patches as large as a tin plate on their backs kept at work, and have heard them groaning when they knelt down to take their load. If a white man worked an animal under such conditions he would get twelve or eighteen months in gaol, but those men are not prosecuted for cruelty to animals. We are now threatened with an influx of aliens from all quarters. We have already got them on the coast in the sugar industry, and now we are threatened with others from New South Wales. If camels are not excluded altogether, steps should be taken to confine them to certain portions of the colony. A great many settlers in the south-western portion of the colony get their supplies from Hergott; it is a very dry track across there, and I believe that camels are necessary on that track, but the same argument does not apply to Cunnamulla, except possibly in time of drought. There are no 100-mile stages there without water, but there are in other places, and while I do not wish to prohibit the employment of camels altogether, I think some legislation should be introduced to confine them to the far south-western corner of the colony, where the country is very dry and arid. It may be necessary to have camels there, but it is certainly not necessary to have them at Cunnamulla.

Mr. KERR (*Barcoo*): This is a very urgent question, and I think it is time the Government took some steps to legislate on the subject.

The PREMIER: What form of legislation would you have?

Mr. KERR: One form in which legislation might be introduced is in the direction of doing something to prevent the cruelty which is practised on those animals. When I was out at Thargomindah I had the opportunity of seeing a number of camels loaded and unloaded, and I can corroborate the testimony of the hon. member for Gregory as to the condition in which some of the camels were worked. There were raw patches on their backs as large as a tin plate, and while the camels were being loaded they made a most mournful sound. I thought at the time that the police should have had the power to stop the overloading of the camels with coils of wire and rabbit-netting. If it was not a matter of overloading, it must have been a matter of the packsaddle not fitting, and it ought to have been stuffed or made to fit. If a white man had been using an animal under the same conditions as I have seen the Afghans using them, the police would have stopped them.

The SECRETARY FOR AGRICULTURE: Have you seen mules coming down the coast range?

Mr. KERR: I have seen them coming in from Cairns to Croydon at a time when we were very badly off for tucker. I had an opportunity of seeing them unloaded at Atherton's store, near where my blacksmith s store was, and I never saw any of them in the condition that I have seen camels in at Thargomindah. Then I have it from a very credible source—from a gentleman who was very nearly a member of this House, and who may yet be a member—and he informed me that he has seen canvas stitched on to a camel's back covering the sore. If they treat the "ships of the desert" in that fashion, the Government has just cause to bring in legislation to prevent cruelty to animals.

Mr. MCDONALD: They introduce the mange, too.

Mr. KERR: Yes. Anyone who knows anything about camels, or has conversed with men who have camels of their own, knows they are not very clean animals. I think it was the hon. member for Balonne who pointed out that it is not a matter of cheapness. There is a telegram in the second edition of the *Observer* which contradicts the statement of the Chamber of Commerce, and points out that there is no difficulty in getting loading into the district with bullock and horse teams—that Mr. Patrick Leahy, of Thargomindah, has some 100 tons loading that can be delivered within three weeks from Cunnamulla to Thargomindah, and about four weeks from Charleville to Thargomindah. If it is not a question of cost, why is it that the Afghans, whoever may be their employers, come in, and, as it were, take the bread out of the mouth of the white carrier? It has been pointed out—and very correctly and justly—that these carriers—or many of them—are pioneers of the district—good men, who have spent the whole of their lives in carrying, and have invested the whole of their capital and that of their families in the business. If they are to be ousted out of their business like that, we can come to no other conclusion than that it is because the Afghan is cheap and reliable, because there is no difficulty in white men driving camels. Lots of white men—mates and relatives of our own—have camels in Western Australia, and I have always been under the impression that what the black man or coloured man can do the white man can do a great deal better. I think the legislation the Government should bring in should be in the direction of preventing cruelty to animals. They can also stop Afghan or coloured drivers, and prevent them from owning camels. That would relieve some of the objections that the carriers of the West have to the employment of camels. I hope the Government will take into consideration what the carriers have done in the past. As has been pointed out, it is not only the carriers but the whole of the tradespeople who suffer by the introduction of camels. There is the wheelwright, the blacksmith, the saddler, the storekeeper, and others, amongst whom these white men spend their money. Then, again, if we allow these coloured aliens to come in with their camels, what is there to stop them, as the hon. member for Gregory says, from coming to Longreach? What is there to stop them from going to Hughenden?

Mr. MCDONALD: They have had them at Hughenden.

Mr. KERR: We have never had occasion to have them at Longreach. The matter is one that wants dealing with speedily. Action should be taken at once to show that the Government intend to put their foot down and assist the white carriers who are at present carrying on the carrying industry.

Mr. STORY, in reply: I wish to tender my thanks to the House for the very careful consideration they have given to this matter. I am glad to see that both sides are almost unanimous that it would be a disaster to admit these carriers where they are not required—into competition with teamsters who have been working well for

many years past without the assistance of camels. I may say that there is no wool coming to Cunnamulla by camels that could not be equally as well brought by teams. It is a mere matter of business. I trust the Home Secretary will see his way to introduce some legislation—as the hon. member for Barcoo said—as speedily as possible to protect the carriers who have done so much for the district in past times.

[7·30 p.m.] I beg, with the consent of the House, to withdraw my motion.

HONOURABLE MEMBERS: Hear, hear!

Motion, by leave, withdrawn.

CRIMINAL CODE BILL.

RESUMPTION OF COMMITTEE.

Clauses 365 to 393 put and passed.

On clause 394—"Funds, etc., received by agents for sale"—

The ATTORNEY-GENERAL explained that the existing law required directions as to the disposal of the proceeds of property entrusted to agents to dispose of to be in writing, but this clause did not require the directions to be in writing. Many a man who was able to give very clear instructions verbally might not be able to reduce them to writing, and he thought the alteration was an improvement.

Clause put and passed.

Clauses 395 to 397 inclusive, put and passed.

On clause 398—"Punishment of stealing"—

Mr. GIVENS (*Cairns*) moved the omission of the words "with or without solitary confinment," on line 9, subsection 1.

The ATTORNEY-GENERAL: I accept that amendment.

Amendment agreed to.

The ATTORNEY-GENERAL moved the omission of the words "eighteen," with a view of inserting the word "seven."

Mr. GIVENS: What about the words on the 12th and 13th lines, subjecting the offender to imprisonment for life with hard labour?

The ATTORNEY-GENERAL: That's necessary; that's the bushranging subsection.

Amendment agreed to.

Similar amendments were agreed to on line 37—"Stealing goods in transit"; on line 43—"Stealing by persons in the Public Service"; and on line 48—"Stealing by clerks and servants."

Clause, as amended, put and passed.

On clause 399—"Concealing registers"—

On the motion of the ATTORNEY-GENERAL, it was agreed to omit the word "life," with the view of inserting the words "fourteen years."

On the motion of Mr. GIVENS, it was agreed to omit the words "with or without solitary confinement," on the 49th and 50th lines.

Clause, as amended, put and passed.

On clause 400—"Concealing wills"—

On the motion of the ATTORNEY-GENERAL, this clause was amended by substituting "fourteen years" for "life with or without solitary confinement," and agreed to.

Clauses 401 to 406, inclusive, put and passed.

On clause 407—"Fraudulent disposition of mortgaged goods"—

Mr. GIVENS (*Cairns*) pointed out that in a former clause which they had passed it was provided that the penalty for stealing by directors or officers of companies might be seven years with hard labour. He failed to see why that should be deemed a crime, and the fraudulent disposition of mortgaged goods be classed as a misdemeanour. He, therefore, moved the omission of the word "misdemeanour" with the view of inserting the word "crime." If that were agreed to he would move another amendment subsequently.

Mr. DUNSFORD (*Charters Towers*): Quite a number of persons mortgaged their furniture for very small amounts, and he could conceive of a poor woman mortgaging her sewing machine in order to get a loaf of bread. It would be very hard in such a case if the mortgagor were liable to seven years' imprisonment for dealing with the article she had mortgaged, and he thought the punishment provided in the clause was quite severe enough.

The ATTORNEY-GENERAL: That was precisely his own opinion. He did not care to say anything invidious, but usually it was people who were poor and hard up who mortgaged goods of that sort, and he thought the offence of fraudulently dealing with those goods would be sufficiently met by a punishment of three years.

Amendment put and negatived, and clause passed as printed.

Clauses 408 to 410, inclusive, put and passed.

On clause 411—"Punishment of robbery"—

The ATTORNEY-GENERAL moved the omission of the words "with or without whipping, which may be inflicted once, twice, or thrice."

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

Clause 412—"Attempted robbery, accompanied by wounding, or in company"—passed with amendments similar to that made in clause 411.

On clause 413—"Assault with intent to steal"—

Mr. GIVENS moved the omission of the words "with or without solitary confine-

[8 p.m.] ment." The punishment was ample without solitary confinement. He would rather see the term increased to four years than see solitary confinement retained.

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

On clause 414—"Demanding property with menaces with intent to steal"—

On the motion of Mr. GIVENS, the clause was amended by the omission of the words "with or without solitary confinement," and agreed to.

On clause 415—"Demanding property by written threats"—

On the motion of the ATTORNEY-GENERAL, the clause was amended by substituting the words "fourteen years" for "life," and agreed to.

Clause 416—"Attempts at extortion by threats"—was agreed to with a similar amendment, and the omission from lines 46 and 47 of the words "and if under the age of sixteen years is also liable to whipping."

On clause 417—"Procuring execution of deeds, etc., by threats"—

The ATTORNEY-GENERAL moved the omission from line 13 of the word "life" with the view of inserting the words "fourteen years."

Amendment put and carried.

Mr. GIVENS moved the omission from line 13 of the words "with or without solitary confinement."

The ATTORNEY-GENERAL: This was a very serious offence. A man who committed it must be destitute of all the attributes of manliness, and might think himself fortunate if he escaped with the term of imprisonment that the Bill provided instead of the term there used to be formerly.

Amendment put and negatived.

Clause passed as amended.

On clause 419—"Housebreaking: Burglary"—

Mr. GIVENS moved the omission of the words "with or without solitary confinement" after the word "years."

Amendment agreed to.

A similar amendment was made in the last paragraph of the clause.

Clause, as amended, put and passed.

Clauses 420, 421, and 422 passed with similar amendments.

Clauses 423 to 426, inclusive, put and passed.

On clause 427—"Obtaining goods by false pretences"—

Mr. GIVENS (*Cairns*) moved the omission of the words "with or without solitary confinement," at the end of the 1st paragraph.

The ATTORNEY-GENERAL said this was a very common offence. There was no way by which tradesmen and others were more frequently swindled than by men obtaining goods on false pretences, and he did not think that in a case of this kind the Committee should be too squeamish. A man who went into a shop and presented a valueless cheque, and obtained goods in that way, got off very lightly when the maximum term of imprisonment was three years. He did not feel disposed to accept any amendment in the clause.

Amendment negatived, and clause put and passed.

Clauses 428, 429, and 430 put and passed.

Clause 431 was agreed to with a verbal amendment.

On clause 432—"Pretending to exercise witchcraft or tell fortunes"—

After a verbal amendment,

Mr. DUNSFORD said he thought the age for the punishment of witchcraft was passed. People who went to fortune-tellers deserved to be taken in. Fortune-telling should not be considered a crime, and he did not see any necessity for this clause.

The ATTORNEY-GENERAL: This clause did not deal with the dark ages. These fortune-telling people were generally foreigners, whom it was not desirable to encourage—idle persons who were really vagrants.

Clause, as amended, put and passed.

Clauses 433 and 435 were, on the motion of Mr. GIVENS, amended by the omission of the words "with or without solitary confinement," on lines 24 and 26, and agreed to.

Clauses 434 and 436 put and passed.

On clause 437—"Directors and officers of corporations or companies fraudulently appropriating property, or keeping fraudulent accounts or falsifying books or accounts"—

Mr. GIVENS moved to omit the words "with or without solitary confinement," on line 55.

Mr. JENKINSON trusted that the Attorney-General would see his way to increase the punishment for this fearful offence.

Mr. GIVENS, by leave of the Committee, withdrew his amendment.

Mr. JENKINSON moved that the word "seven" be omitted, with a view of inserting the word "ten," on line 55.

The ATTORNEY-GENERAL did not see any reason for making the proposed
[8·30 p.m.] alteration. The Commission had divided punishments into different classes—life, fourteen years, and seven years; and there was no punishment provided in the Code for ten years.

Mr. JENKINSON: Make it fourteen years.

The ATTORNEY-GENERAL: No; he thought seven years was quite enough. It was not so serious an offence as some of those to which they had attached the punishment of seven years; and if they retained the solitary confinement, about the terror of which they had heard so much, that punishment would be quite sufficient.

Mr. HIGGS (*Fortitude Valley*) thought they might let the punishment in this clause go, as they had passed the previous clause which rendered trustees fraudulently disposing of trust property liable to imprisonment for seven years, and a director was very much in the position of a trustee.

Amendment put and negatived.

Mr. GIVENS did not think the offence mentioned in this clause as serious an offence as fraud by trustees. Trustees might defraud orphan children, but a director or officer of a company falsifying the books of a corporation, or destroying or mutilating any book or document, might only defraud a wealthy company of a few pounds. He therefore moved the omission of the words "with or without solitary confinement."

Amendment put and negatived; and clause passed as printed.

On clause 438—"False statements by officials of companies"—

Mr. GIVENS moved the omission of the words "with or without solitary confinement."

The ATTORNEY-GENERAL did not know whether a man like Jabez Balfour would be considered hardly dealt with if he had a term of solitary confinement, but he thought if they had articles of that description in the community they might leave them to the mild fate proposed in the Bill.

Amendment put and negatived; and clause put and passed.

Clause 439 put and passed.

On clause 440—"Misappropriation by members of local authorities"—

Mr. FOGARTY (*Drayton and Toowoomba*) thought this clause required some consideration As he read it, a member of a local authority would be liable to imprisonment for two years if he voted a donation of five guineas to the local hospital, or for applying money derived from water rates to the improvement of the roads in the municipality or division.

The ATTORNEY-GENERAL did not think there was any likelihood of any member of a local authority being prosecuted for anything of the kind mentioned by the hon. member—that was, for spending money in a *bonâ fide* manner in the interest of the general public, though it might not technically come within the powers conferred upon local authorities with regard to the expenditure of money. Still it was very necessary to have a check upon the propensity which some members of local authorities had for spending the ratepayers' money in an improper way, as, for instance, on a statue to perpetuate the memory of a mayor or chairman, or in some other way that was manifestly wrong to the ratepayers.

Mr. FOGARTY: Was it not within the province of any ratepayer to take action under that clause against a member of a local body in the event of his voting a donation to the hospital, or applying the revenue derived from water rates to street improvements? He should consider that he was dealt very harshly with if he was prosecuted for any such action.

Mr. GIVENS had noticed that although those things were against the law yet the local authorities generally found a way of getting over the difficulty. He knew of a case where a local authority incurred an expense of £20 for a banquet, and when certain ratepayers threatened to take action in the matter they voted the amount as an allowance to the mayor, which was within their rights. He did not think the penalty provided by the clause was a bit too severe for a breach of public trust.

The ATTORNEY-GENERAL would try and meet the objection of the hon. member for Drayton and Toowoomba by putting in a few words which would safeguard honest men who made a mistake. He moved that the following words be added after the last line of the clause, "A prosecution for either of the offences defined in this section cannot be begun except by the direction of a Crown Law Officer."

Mr. RYLAND (*Gympie*) was sorry he could not agree with the amendment. It made the clause worse than it was previously. He should like to see it amended, so as to protect members of local bodies when they acted in ignorance.

The ATTORNEY-GENERAL: The case cited by the hon. member for Drayton and Toowoomba was a case in point. Local authorities had no right to devote money to the local hospital. They had no right to devote their funds to any purpose, no matter how benevolent it might be, not authorised by the Local Government Act or the Divisional Boards Act; but members of local authorities should not be subjected to the indignity of being brought before a court for a misdemeanour at the instance of a man of vindictive nature. It was impossible to provide for every possible misapplication of funds, but provision must be made for wilful misapplication.

Mr. JENKINSON: Does that apply to the cases of members treating themselves to a dinner once a month? It is done frequently.

The ATTORNEY-GENERAL: That is not a grievous thing after a man has travelled forty or fifty miles.

Mr. JENKINSON: I am not complaining; but would they be liable?

The ATTORNEY-GENERAL: They would be liable, but if the clause were amended in the way he suggested they would be protected.

Mr. LESINA was strongly of opinion that the clause should be maintained in its integrity. Many of the members of divisional boards and other local bodies had the nasty habit of spending public money which, under ordinary circumstances, should be devoted to the requirements of the constituency. For instance, they spent £70 or £80 in entertaining some distinguished individual who spent about twenty-four hours in the place, who had never seen it before, and who had never done anything towards advocating its welfare. Men who spent money in that way should be prosecuted. If a boy pulled down a pair of boots outside a shop, and misappropriated the property of the shopkeeper, he was liable to be whipped and sent to gaol, and the man who misappropriated public money should also be punished. The Crown Prosecutor should not be allowed to step in and protect him.

Mr. RYLAND: He did not think any amendment was necessary. Let the clause remain. There was another thing the local authorities did. That was to raise money for one purpose and devote it to another. For example, they levied a rate within a certain benefited area; but, instead of spending the money within that area, they spent it outside. In that way, great injustice was done. He should certainly vote for the clause remaining as it was.

Amendment put and passed, and clause put and passed.

Clauses 441 to 460, inclusive, put and passed.

Clauses 461, 462, and 463 were amended by the omission in each case of the provision for punishment by whipping.

On clause 464—"Attempting to set fire to crops, etc."—

The ATTORNEY-GENERAL moved the omission of the words "and with or without whipping."

Mr. DUNSFORD thought seven years was too great and heavy a penalty for attempting to set fire to a sapling, or a shrub, or a standing tree, or heath, or fern, or a crop of fresh grass, and he would ask the hon. gentleman to withdraw his amendment in order that he might move an amendment to reduce the term.

The ATTORNEY-GENERAL: A man might get six months for what the hon. member had mentioned. The heavier penalty was, for example, for a man who attempted to set fire to a man's stack of wheat or hay, and was caught just before he applied the brand. He could not accept an amendment in the direction indicated by the hon. member.

Mr. DUNSFORD: But you could withdraw yours out of courtesy, and let me move one.

The ATTORNEY-GENERAL said he could not accept it, and there was no use in wasting time.

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

Clauses 465 and 466 put and passed.

On clause 467—"Obstructing and injuring railways"—

Mr. DUNSFORD moved the omission of the words "with or without whipping,
[9 p.m.] which may be inflicted once, twice, or thrice," on lines 47 and 48.

The ATTORNEY-GENERAL: He had been merciful in many instances, but he must insist on the punishment of whipping for these offences. He could conceive of no more diabolical act than that of a man obstructing a railway line, whereby the lives of many persons might be endangered. Persons who travelled on the railway were entitled to a sense of security, so he could not accept the amendment.

Mr. LESINA could not see what good it did a man by flogging him when he was imprisoned for life.

The ATTORNEY-GENERAL: It is a deterrent to other evilly-disposed persons.

Mr. LESINA: What right had they to mutilate a man's body to prevent other persons from committing crimes? Seeing that the offender was imprisoned for life, how could it affect anybody else.

The ATTORNEY-GENERAL: It prevents other rascals from committing these crimes.

Mr. LESINA: He did not see that, seeing that the very fact of a man being liable to imprisonment for life was not a sufficient deterrent. Flogging degraded everybody concerned in the punishment, and he contended that it had no moral or reforming effect whatever. If a drunken driver wrecked a railway train would he be flogged? Yet he would be as guilty as a man who put a piece of wood under a rail. No justification whatever had been shown for this punishment of flogging.

The ATTORNEY-GENERAL hoped that they were not going to spend the whole night over this matter. He had informed hon. members that he would relinquish the severe provisions of the Code as far as he could, and he had kept his word. He hoped that hon. members would try to push on with work.

Clause put and passed.

On clause 468—"Injuring animals"—

The ATTORNEY-GENERAL moved the omission of the word "fourteen" with a view of inserting the word "seven."

Mr. DUNSFORD moved the omission of the words "with or without solitary confinement," on the 4th and 5th lines, on page 127.

The ATTORNEY-GENERAL: If it were a case of the mere killing of a horse without putting it to unnecessary torture, a person would not get that extreme punishment, but they knew very well that there were some men who took vengeance on other people by inflicting cruel torture on horses and other animals, and in such cases the punishment was not too severe.

Mr. LESINA: There was great inconsistency in the punishments proposed in the Code. A man like Jabez Balfour, whose robberies had caused the ruination of many humble people who had invested their savings in the institutions of which he was a director—and about fourteen of those persons had been driven to commit suicide by the stress of misery they suffered—would be liable to seven years' imprisonment, with or without solitary confinement. And in the

clause under discussion it was proposed that the man who cut a horse's throat, or the throat of a sheep, or otherwise mutilated it, should be liable to the same punishment. That morbid, namby-pamby kind of sentiment was all very well in a drawing-room, but he held that there was a vast difference in the two offences.

The ATTORNEY-GENERAL: Cutting a horse's throat is not mutilating it.

Mr. LESINA: What was mutilation then?

The ATTORNEY-GENERAL: Cutting a horse's tongue out would be mutilation; you would not stand up for a man like that, would you?

Mr. LESINA: No, but he objected to any man, even a man like Jabez Balfour, being subjected to solitary confinement, as it would not reform him; it was calculated to weaken his mind and make him a raving lunatic.

The ATTORNEY-GENERAL really thought that hon. members ought to accept what he had voluntarily given, in reducing the term of imprisonment from fourteen to seven years. Solitary confinement ought to be retained for exceptional cases, and such as where a man took a horse and cut its tongue out.

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

On clause 469 — "Malicious injuries in general"—

Mr. LESINA asked why an action which was done at 12 o'clock in the day should be regarded as less serious than an action done at 1 o'clock in the morning?

The ATTORNEY-GENERAL: A person could keep an eye on his property in the daytime. A man who went sneaking about, under cover of darkness, to commit those offences, in addition to being a criminal, was a coward. People ought to have as much sense of security after dark as they had in the daylight, and he thought the distinction made in the clause, which was not very much of a distinction after all, was properly drawn.

Mr. GIVENS: In this clause punishment by imprisonment with hard labour for life "with or without solitary confinement" was provided. He had no sympathy with persons who used dangerous explosives, but the word "dangerous" was not used in the section dealing with punishment in special cases. He had a distinct recollection of a practical joke which was played some years ago with an explosive substance—cyanide of potassium—and if this provision had been in force then the persons who played that joke would have been liable to imprisonment with hard labour for life, with or without solitary confinement, and with or without whipping. He did not want to move an amendment, but he hoped the Attorney-General would himself propose a reduction in the punishment.

The ATTORNEY-GENERAL: This was a most serious offence. It was a thing against which a person had no chance of defending himself. For instance, a man might put an infernal machine on board a ship and blow it up. He did not think that a man who would have recourse to that kind of thing was deserving of the smallest amount of sympathy.

Mr. LESINA: I would take "whipping" out.

Mr. GIVENS: He did not think the punishment should be inflicted unless the explosive was of a specially dangerous nature. If the clause were passed as printed, the person who perpetrated a practical joke of that kind would be subject to this severe punishment.

The HOME SECRETARY: He would not deserve any sympathy.

The ATTORNEY-GENERAL: He would not be liable.

Mr. GIVENS: He objected to leaving anything to a judge which could be defined. If a man threw a rocket into a crowd, not knowing the exact danger of a rocket, he would be liable. He would also be liable if he threw in a packet of crackers.

The ATTORNEY-GENERAL: That would not be an offence.

Mr. GIVENS: In order to test the feeling of the Committee he moved that the words "with or without whipping" be omitted. When a man got solitary confinement for life, whipping might be omitted.

Amendment put and negatived.

The ATTORNEY-GENERAL: He had a further amendment to move—namely, that in lines 49 and 50 the words "and if not of the age of sixteen years is also liable to whipping" be omitted.

Amendment put and passed; and clause agreed to with consequential amendments.

Clause 470 amended by omitting the provision for punishment by whipping.

On clause 471—"Attempts to injure mines"—

Mr. FISHER drew attention to the incompleteness of the provision relating to any person who with intent to injure a mine or to obstruct the working of a mine "unlawfully, and with intent to render it useless, unfastens a rope, chain, or tackle, of whatever material, which is used in the mine." That dealt entirely with rendering useless, but any miner would know that a rope might be seriously damaged or injured and not be rendered useless, and the crime might be much worse than if the rope were rendered useless. A rope might be seriously injured by being hit with a hammer, for instance, and it would not be unfastened at all. He asked the hon. gentleman to make the provision more definite so as to deal with the offence of injuring a rope and making it less strong than it would be if it had not been injured.

The ATTORNEY-GENERAL thought the miners deserved all the protection that could be afforded to them, and he had no objection to giving effect to the suggestion made by the hon. member. He moved the insertion, after the word "useless," of the words "injures or."

Amendment agreed to.

On the motion of the ATTORNEY-GENERAL, it was agreed that the words "and with or without whipping" be omitted.

Clause, as amended, put and passed.

Clause 472—"Interfering with marine signals"—was amended, on the motion of the ATTORNEY-GENERAL, by omitting the words "and if under the age of sixteen years, is also liable to whipping," and agreed to.

On clause 473—"Interfering with navigation works"—

The ATTORNEY-GENERAL moved a similar amendment to that moved on the preceding clause.

The SECRETARY FOR PUBLIC LANDS did not wish to oppose any amendment, but he pointed out that where a boy was brought up for interfering with marine signals, or doing damage to railway lines, and so on, it would be far better for him to be whipped than to be sent to gaol where he would associate with criminals. Therefore what some people regarded as a mitigation of crime might have the contrary effect.

Mr. LESINA contended that the arguments of the Secretary for Lands cut the ground from under their feet with regard to criminal punishment, because he admitted that the imprisonment of boys would have a demoralising effect. He (Mr. Lesina) contended that it had a brutalising effect, and although boys were sometimes birched in the old country, it might have a moral effect, because it was administered by an official.

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

Clause 474 put and passed.

On clause 475—"Travelling with infected animals"—

Mr. LESINA asked if the clause would cover a man travelling with an animal in a quarantine area not knowing that the animal suffered from an infectious disease?

The ATTORNEY-GENERAL: No.

Clause put and passed.

Clause 476 put and passed.

Clause 477—"Obstructing railways"—put and passed.

On clause 478—"Sending letters threatening to burn or destroy"—

The ATTORNEY-GENERAL moved the omission of the words "and with or without whipping."

Mr. GIVENS: Move the omission of the words "with or without solitary confinement" as well.

The ATTORNEY-GENERAL: Well, he would do so, but he did it with very great reluctance, because it was a most cowardly thing to send letters of that description. He moved the omission of the words "with or without solitary confinement, and with or without whipping."

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

Clause 479—"Arrest without warrant"—put and passed.

The ATTORNEY-GENERAL did not think it was necessary to take the clauses in the next chapter separately, as they simply gave power to the justices to deal with certain offences summarily, and were in the direction of mercy. With the leave of the Committee he would move that clauses 480 to 483, inclusive, stand part of the Bill.

Clauses put and passed.

The ATTORNEY-GENERAL: The next chapter referred to legal definitions of forgery and like offences, and he did not think anybody could complain of the accuracy of those definitions. He moved that clauses 484 to 487, inclusive, stand part of the Bill.

Clauses put and passed.

On clause 488—"Punishment of forgery in general"—

Mr. GIVENS said he did not think that forgery was such a serious crime that it should be punished with solitary confinement; and he noticed that for forging a public seal the offender was liable to imprisonment with hard labour for life, with or without solitary confinement. Imprisonment for life was severe enough, and he moved the omission of the words "with or without solitary confinement."

The ATTORNEY-GENERAL: I have no objection to that amendment.

Mr. HARDACRE asked whether the seal referred to in the clause was a seal used for private purposes, or for stamping public documents?

The ATTORNEY-GENERAL: It was a great seal which was stamped on documents of high State importance, and to allow a man to forge such a seal might involve chaos. Such a crime was not a crime against any individual, or two or three individuals, but it was a crime against the entire State, and should be regarded as one of the most extreme gravity.

Amendment put and passed.

The ATTORNEY-GENERAL: The other cases in the clause did not seem to him to be of so serious a nature, and he therefore moved the omission of the word "life," in the paragraph of section 2, with the view of inserting the words "fourteen years."

Mr. GIVENS: Leave out "with or without solitary confinement" also.

The ATTORNEY-GENERAL: The forging of evidence of title, of deeds, and of bank notes was a serious crime, and gangs of forgers were dangerous enemies to the community. He was meeting hon. members very fairly in that matter, and he trusted they would accept the amendment he proposed. He could not give way on the matter of solitary confinement in this case.

Clauses 489 to 492 put and passed.

On clause 493—"Obliterating crossings on cheques"—

The ATTORNEY-GENERAL thought the punishment of the present law for
[10 p.m.] offences of this kind was too severe, and therefore moved the omission of the words "or life, with or without solitary confinement," with the view of inserting "seven years."

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

On clause 494—"Making documents without authority"—was agreed to with a similar amendment.

Clause 495 put and passed.

On clause 496—"Purchasing forged bank notes"—

The ATTORNEY-GENERAL moved the omission of the word "fourteen," with the view of inserting "seven."

Mr. GIVENS: He thought the clause was contrary to the spirit of the law. Every person was supposed to be innocent until he was proved guilty; but according to this clause he would have to prove his innocence.

The ATTORNEY-GENERAL: In such cases as this it would be impossible to get proof.

Mr. GIVENS: He thought the onus of proof should lie with the prosecution.

The ATTORNEY-GENERAL: A person did these things secretly, and the onus of showing that he came by the notes honestly should lie on the person who had them. He should show that he got them without any fraudulent intent. It was a general principle that a person was innocent until he was proved guilty; but there were many exceptions, and this was a very necessary one.

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

Clause 497 put and passed.

Clause 498—"Falsifying warrants for money payable under public authority"—was amended by the omission of the words "with or without solitary confinement," and agreed to.

Clause 499 put and passed.

Clause 500—"Sending false certificate of marriage to registrar"—was, on the motion of Mr. FISHER, amended by the omission of the words "with or without solitary confinement," and agreed to.

Clauses 501 to 513 put and passed.

Clause 514 amended by substituting the term of "fourteen years" for "imprisonment for life."

At 10·15 p.m.,

Mr. KERR called attention to the state of the Committee.

Quorum formed.

Clause 515 amended by the omission of the provision relating to solitary confinement.

Clauses 516 and 517 put and passed.

The ATTORNEY-GENERAL: The next clauses were taken from the Insolvency Act, and the maximum imprisonment is three years.

Mr. GIVENS: Is there any solitary confinement or whipping?

The ATTORNEY-GENERAL: No.

Clauses 518 to 533 put and passed.

On clause 534—"Intimidation of workmen and employers"—

Mr. GIVENS thought that as they had made such good progress the Attorney-General ought to be satisfied, and he suggested that this clause, which was an important and contentious one, might be postponed. If the hon. gentleman would not accept the suggestion, then they would have to discuss it. According to this clause if a

man spoke to a workman in the course of business, during an industrial dispute, he would be liable to imprisonment.

The ATTORNEY-GENERAL: No.

Mr. FISHER: Yes, under subsection 3.

Mr. GIVENS: That would be the case under that subsection, which he took exception to. The clause, in his opinion, was a very important one, and he thought it should be discussed in a full Committee.

The ATTORNEY-GENERAL: There could be no object in postponing the clause. He was anxious to get on with the Bill, and there was no chance of getting on with it to-morrow, and Thursday was private members' day up till tea time. The law under this section was more liberal than the English law on the subject, and there was nothing contentious in subsections 1 and 2, but there might be something to be said about subsection 3.

Mr. FISHER: "Compulsion" is very comprehensive.

The ATTORNEY-GENERAL: Say a man was blocked by a number of people for a long time by their interposing between him and the place he wants to go to.

Mr. FISHER: That is dealt with in paragraph 1, which dealt with "molesting."

The ATTORNEY-GENERAL: He did not care to stop at this stage of the Bill, and they might as well go on with the discussion now.

Mr. HIGGS moved the omission of the words "or by besetting the house or place of work of another." He thought that would be dealt with under another section. Picketing was recognised as a fair act during an industrial dispute.

[10·30 p.m.]

The ATTORNEY-GENERAL: This is not picketing.

Mr. HIGGS: If a man was walking down the street, it might be construed into an offence under the clause, and he might be sentenced to three months. Of course, if a man loitered during an industrial dispute, the police could move him on.

The ATTORNEY-GENERAL: Besetting had a distinct legal significance. It meant mobbing, hemming in, or keeping close to a man's house. It would be a most improper thing for a number of persons to surround a man's house so as to cause him to regard himself as a prisoner in his own house, and it would have a terrifying effect on his wife and children, and even on himself. He did not see why they should tolerate such a thing. The clause went on, in the next place, to deal with following in a disorderly manner in a public highway, then molesting a man, and then obstructing him by any physical act in the pursuit of his lawful vocation.

Mr. HIGGS: A mob can be moved on by the police.

The ATTORNEY-GENERAL: They might if the town by-laws provided for it. The absolute prevention of a man from carrying on his work, or getting to his place of employment, was an extreme thing, and he really saw no hardship in the clause.

Mr. GIVENS: If besetting meant surrounding a house so as to terrify the inmates, it could very easily be dealt with under clauses they had passed referring to rioting.

The ATTORNEY-GENERAL: It is not necessarily rioting; they might be saying nothing.

Mr. GIVENS: If he was quietly in the street talking to others he did not think he could be punished at all under that clause. It seemed to be particularly aimed at the so-called offence of picketing. According to the clause, one person could be found guilty of the offence of besetting the house of another, and surely the hon. gentleman did not contend that one man could mob a house.

The ATTORNEY-GENERAL: The singular includes the plural, you know.

Mr. GIVENS: It also included the singular, so that, according to the hon. gentleman, one man could mob a house.

The ATTORNEY-GENERAL: No.

Mr. GIVENS: The whole crux of the matter was that if a man was guilty of the so-called offence of picketing—that was, putting a man in such a position that he might interview the workmen going to or from a particular place of work where there was a strike on, and put the facts clearly before them—he was guilty of an offence under the clause. He saw no danger in accepting the amendment. Subsequent subsections provided sufficient safeguards against any illegal acts. The clause was a very contentious one, and one in regard to which hon. members on that side felt strongly, because they had known instances in Queensland where laws of that kind had been interpreted very harshly towards workmen. They did not propose to eliminate the latter portions of the clause, but they wished to make it clear that the act of speaking to a man, and placing before him the facts in connection with any industrial dispute, should no longer be regarded as a crime. If the section in its entirety had always been carried out, he might on more than one occasion have been left to cool his heels in gaol for two or three months, although he contended that he had been guilty of no crime whatever.

Mr. FISHER had no doubt that the hon. gentleman gave his opinion in good faith when he said that that clause did not include picketing, but in Stroud's Judicial Dictionary, published in 1890, under the heading of "beset," it was said that "picketing workmen is to beset," under section 7, subsection 4, of the Conspiracy against Property Act. So that the Attorney-General's law and the law as given in that work differed. Personally he thought that picketing was a perfectly legitimate thing.

The ATTORNEY-GENERAL: The clause did not mean picketing as he understood the term; but he wished to meet hon. members as far as he could, and to prevent any misconception in the matter, he was willing to insert the following words:—"Attending at or near the house or place of work of another, or the approach to such house or place of work in order merely to obtain or communicate information is not deemed besetting within the meaning of this section." The proper place to insert that amendment would be after the paragraph fixing the penalty. The mere fact of a number of persons gathering together near a house would not under that provision be besetting, because in that case it would have to be proved by the person who laid the charge that they came there for the purpose of besetting. He thought hon. members ought to be prepared to accept that amendment, as it would afford ample protection where there was no positive interference with a man's liberty to do as he pleased.

Mr. HIGGS: With the permission of the Committee, he would withdraw his amendment.

Amendment, by leave, withdrawn.

The ATTORNEY-GENERAL moved the omission of the words "or attempts to prevent," in subsection (*b*).

An HONOURABLE MEMBER: What about "attempts to compel" in the previous subsection?

The ATTORNEY-GENERAL: Compulsion might take the form of brandishing some formidable weapon in front of a man. He did not mean to say striking him with a stick, because

that would be punishable in another way. Supposing a body of men formed themselves together two or three deep and barred a man's way, or hustled him, that would be compelling him; if the man ran away, and they did not proceed further, it would be an attempt to compel him without using actual compulsion. He really thought he had met hon. members very fairly in the matter.

Amendment agreed to.

The ATTORNEY-GENERAL moved the amendment which he had indicated.

Mr. FISHER suggested that the Attorney-General amend the following subsection by the words "being the director of a company." He did not see why it should simply be master. It was simply the old style—"master and man." Why should not directors be included? They were just as much interested as masters.

The ATTORNEY-GENERAL: It might be got at in this way, by substituting "employer" for "master." Then a director would be an employer.

Mr. FISHER: It would exclude shareholders?

The ATTORNEY-GENERAL: A shareholder was not an employer. He would move that the word "master" be omitted with the view of inserting the word "employer."

Amendment agreed to.

Mr. FISHER thought the next subsection should be amended. He did not see why a person should be compelled to give evidence.

The ATTORNEY-GENERAL: They are not excused from answering questions which would incriminate themselves; but a prosecution could not be grounded on the evidence they gave.

Mr. FISHER: Upon this particular point?

The ATTORNEY-GENERAL: They could not be proceeded against upon the offence they admitted on examination.

Mr. FISHER: Would it not be advisable to add another subsection that employers who combined together to prevent any particular individual from getting employment should be guilty of an offence?

The ATTORNEY-GENERAL: That is foreign to the clause.

Mr. FISHER: It was not foreign that employers banded themselves together, and it was time the law recognised that.

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

Clauses 535, 536, and 537 put and passed.

On clause 538—"Reduction of punishment"—

Mr. FISHER thought the punishment of imprisonment for seven years was too
[11 p.m.] severe for a man who only attempted to commit a crime, and desisted of his own will.

The ATTORNEY-GENERAL: Suppose he attempted to commit rape?

Mr. FISHER: That was provided for in a previous clause. He presumed that this clause did not deal with that.

The ATTORNEY-GENERAL: It deals with everything.

Mr. FISHER: The clause stated that when a person was convicted of attempting to commit an offence, if it was proved that he desisted of his own motion from the further prosecution of his intention, without its fulfilment being prevented by circles independent of his will, he was liable to one-half only of the punishment to which he would otherwise be liable. If that punishment was imprisonment with hard labour for life, the greatest punishment to which he was liable was imprisonment with hard labour for seven years. If a man attempted to commit a crime and pulled himself up before he committed it he was to be commended for that, and ought not to be punished with seven years' imprisonment. If that was to be the punishment for merely attempting to commit an offence, the better way would be for a man to commit the offence and get a chance of less punishment.

The ATTORNEY-GENERAL: The punishment was not too great for a ruffian who knocked a woman down and subjected her to the grossest indignity, and after her resisting him probably for a quarter of an hour, went away without actually committing the offence he attempted to commit.

At 11 5 p.m.,

Mr. KERR called attention to the state of the Committee.

Quorum formed.

Mr. FISHER: The more he read the clause the more he was convinced that it was too severe. He therefore moved the omission of the word "seven" with the view of inserting the word "three."

The ATTORNEY-GENERAL: He could not accept the amendment. The hon. member seemed to think that the victim of an attempted brutal offence, if the person who attempted the offence stopped short of actually committing the offence, was just as well off as before, and had very little to complain about. He would put it to the hon. member himself. Suppose in the case of his own wife or daughter or sister some ruffian made an outrageous attempt at violation, and after a struggle of a quarter-of-an-hour he thought it would pay him better to let it alone, and went away, was she as well off as before? What about her outraged feelings? And what about the outrage on the feeling of society by a ruffian having gone that far? If hon. members were to take up time let them do so in discussing matters worthy of attention, and not in spreading their sheltering wing over such rascals.

Mr. HIGGS thought the amendment would make the clause incomplete, because he took it that where the punishment was fourteen years a man would get seven years under the first part of the clause. He trusted the hon. member would withdraw his amendment.

Clause put and passed.

Clause 539 put and passed.

On clause 540—"Preparation to commit crimes with explosives, etc."—

The ATTORNEY-GENERAL moved the omission of the words, "and if under the age of sixteen years is also liable to whipping."

Mr. FISHER: Not the omission of solitary confinement?

The ATTORNEY-GENERAL: No.

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

Clauses 541 and 542 put and passed.

On clause 543—"Other conspiracies"—

Mr. GIVENS said he noticed that subsection 4 said: "To injure any person in his trade or profession." This was a very serious matter, and the punishment for the offence under this section should not be allowed to remain on the statute-book. There were men in the House who had suffered under a similar law to this, and unless it was altered the same outrages on justice that had been perpetrated in respect to industrial disputes could be practised in future. He submitted that this clause should be more liberalised.

The ATTORNEY-GENERAL: This clause was not introduced to deal with industrial disputes at all. A doctor might be ruined in his practice and the offender might be dealt with under this clause; and in other cases a number of men might conspire together to prevent a man selling his goods. It did not matter whether the man was a doctor, or a lawyer, or anything else, if it was a matter of conspiracy, the offender should be punished.

Mr. STEWART: What about boycotting.

The ATTORNEY-GENERAL: There was nothing about boycotting in this clause. Subsection 5 was a new feature in the Bill, which tended to modify any possible effect of conspiracy. The essence of the offence was the agreement, not the carrying out of it. This clause liberalised the present law, and should be welcomed by hon. members.

Clause put and passed.

Clauses 544 and 545 put and passed.

Clauses 546 to 589 put and passed in sections.

The ATTORNEY-GENERAL moved that clauses 590 to 631—"Trial; adjournment; pleas; practice"—stand part of the Bill.

Mr. MAXWELL (*Burke*) asked how many times a trial could be adjourned?

The ATTORNEY-GENERAL: The adjournment was granted in the interests of the accused person. He was given the right to ask for an adjournment, and that adjournment was granted.

Clauses put and passed.

Clauses 632 to 653 put and passed.

On clause 654—"Irons"—

The ATTORNEY-GENERAL proposed to ask the Committee to negative the clause, as they had struck out the punishment of irons much earlier in the Bill.

Clause put and negatived.

On clause 655—"Solitary confinement"—

The ATTORNEY-GENERAL moved the insertion of the words "but not in darkness" after the word "confinement." He wished to make it absolutely clear that a man who was sentenced to solitary confinement must be put nowhere where the light was always excluded.

Mr. FISHER asked whether the hon. gentleman would also insert an amendment providing that only a judge could sentence a prisoner to solitary confinement, so as to do away with that form of punishment for prison discipline. Sometimes it was inflicted by those in charge of penal establishments on their own account.

The ATTORNEY-GENERAL: They could not very well do that. It was a matter for the amendment of the Prisons Act, as the Code did not propose to alter the internal management of prisons. The punishment under this clause could only be inflicted by judicial authority.

Mr. HIGGS asked whether it would not be necessary to insert the words "during the daytime"? They might have to provide a man with lights if he was subjected to solitary confinement.

Mr. GIVENS suggested that in order to prevent the health and the mental faculties of a man suffering from solitary confinement, it should be further provided that he should have at least one hour's exercise in the twenty-four in an open yard. That would be a humane provision.

The ATTORNEY-GENERAL had no doubt that the Home Secretary would be disposed to take a humane view in carrying out [11·30 p.m.] the internal arrangements of prisons. They could not go into such details in an important measure like this. In reply to the hon. member for Fortitude Valley, he would say that the amendment made it clear the light was not to be excluded at any time. There would be nothing to prevent a prisoner seeing a light at night.

Mr. FISHER thought it would be advisable to make it clear that an hour's exercise should be allowed to a prisoner every twenty-four hours.

The ATTORNEY-GENERAL: A matter of that sort would be dealt with by the regulations. A reasonable time would be allowed.

Mr. FISHER: It would be acceptable to the Committee if the hon. gentleman would make it clear that a prisoner would not be confined for more than twenty-three out of the twenty-four hours.

The ATTORNEY-GENERAL: He would make representations to the Home Secretary, and he had not the slightest doubt that effect would be given to the humane wishes of hon. members. It would, however, be a mistake to encumber the Code with details.

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

On clause 656—"Whipping"—

The ATTORNEY-GENERAL: Since they had had a discussion upon whipping, he had made it his business to familiarise himself by inquiry with the nature of the punishment. He had seen the instrument with which it was inflicted, and had long interviews with Captain Pennefather, the Comptroller of Prisons, and with Dr. Wray. He was informed by Captain Pennefather that in the case of all the whipping he had seen he had never once known of blood being drawn, and Dr. Wray said he never once saw a case in which the true skin had been cut. Dr. Wray also informed him that in every case the victim had been able to go about next day. The awful severity, therefore, that they had heard about was not known in Queensland, nor had it been for the past fifteen years. He proposed to insert the following addition at the end of the clause:—

> The instrument must be either a birch rod, a cane, a leather strap, or the instrument commonly called the "cat," which should be made of leather or cord without any metallic substance interwoven therewith. Provided that the "cat" shall not be used in cases of prisoners under sixteen years of age.

A person under sixteen years of age might be guilty of some of the offences for which whipping was prescribed as a punishment, but in that case he would be liable only to chastisement with a rod, stick, or strap. He had assured himself that the punishment of whipping was not one-twentieth part as barbarous as some hon. gentlemen seemed to imagine, and he had been told that in the case of one man ordered to receive twenty lashes he laughed when the punishment was over and said, "Why don't you give me 200?" The only effect of the punishment was that it appeared to cause a discolouration, but never a breakage of the true skin; and the instrument he had examined had never a trace of blood on it.

Mr. GIVENS suggested that in the sentence which stated that there should be no metallic substance interwoven with the cat, it should also be provided that there should be no knots in the leather or thongs of which the cat was made. He would like to know if there were knots on the instrument the hon. gentleman saw?

The ATTORNEY-GENERAL: Yes, but there has never been a case of blood having been drawn; if there had been I should have gone for the abolition of the cat.

Mr. GIVENS: Notwithstanding the evidence of Dr. Wray and Captain Pennefather, he distinctly said that an instrument of that kind was not only capable of inflicting absolute torture, but could, in the hands of a man who could use it, be made to bring away portions of the flesh at every cut. As they were humanising the law a little bit he thought the hon. gentleman might accept his suggestion.

Mr. MAXWELL (*Burke*) did not see the use of whipping, as, according to the hon. gentleman's statement, a man who had received twenty lashes wanted 200, and he did not see why they should send people there to get that luxury gratis.

Mr. FISHER: The Attorney-General had told them that whipping with the cat was not a severe punishment. Then why not knock it out altogether?

The ATTORNEY-GENERAL claimed to have as much humanity as any member in the

House, and before coming to that clause he had endeavoured to ascertain the facts as to the nature and effect of the punishment. He could only do that by referring to the two gentlemen he had mentioned. He thought that a reduction might be made in the tails from nine to four or five, but Dr. Wray assured him that if there were only four or five tails the result would be that there would be five distinct blows, and that the punishment would be severer than if nine tails were used. Hon. members must remember that a doctor was always present, and that if he saw any sign of a man collapsing under the punishment he immediately stopped it. The law made every safeguard against brutality or excessive punishment.

Mr. KERR said the experience of the doctor and the captain was very different from that of McNeill, the witness who was brought from St. Helena to Rockhampton to give evidence in the Aryshire Downs case, whose first flogging was the means of making him confess. It was the fear of the second flogging that caused him to give the information he was supposed to give.

Mr. HARDACRE: The Attorney-General had promised that when they came to the definition of "whipping" he would make it much less severe than had hitherto been the case. But all he had done was to remove metallic substances from the whip, while actually advocating the retention of knots in the thongs. With regard to Captain Pennefather and Dr. Wray he would not believe either of them, especially Dr. Wray, who had the reputation of being one of the most brutal doctors over prisoners in Queensland.

The ATTORNEY-GENERAL: In his opinion the testimony of both those officers was worthy of any man's credence. There was an easy way out of the difficulty. If it was considered that the existing cat was too brutal an instrument, it was purely a matter for the Home Secretary to prescribe what kind of a cat there should be. He might say that the instrument used here was exactly the same as that used in Victoria and New South Wales.

Mr. HARDACRE: Is it not possible for a gaoler to make any number and kind of knots he likes?

The ATTORNEY-GENERAL: No. The cat in use was the regulation cat. If any case occurred in which the whip flayed a man's back, he would be the first to make the necessary representation to have the character of the lash made more humane.

Mr. GIVENS: He was under the impression that the gentleman in charge of the
[12 p.m.] Bill would have accepted the amendment. To say that the "cat" which was now in use in Queensland was the regulation cat in New South Wales and Victoria was not much of a recommendation, because they still adhered to some of the relics of the old convict system in those colonies. He had seen some of the men who had worked under that system, and now, after the lapse of forty years, their backs bore the marks of the lash. Anyone who knew anything about whipcord was aware that, with a knot in it, it was capable of inflicting very severe punishment. Why, one could get through the skin of a horse or bullock with it. Having received an assurance from the Attorney-General that he would bring in a definition to minimise the brutality of flogging, he had expected that a reasonable suggestion like this would have been accepted.

Mr. J. HAMILTON (*Cook*): Though hon. members had referred to cases in which the skin had been cut, they had not mentioned one case in Queensland. If members were going to be so particular about knots, they would also have to decide the length of the handle. Then they would have to decide as to the character of the whipcord, because he had seen it wound up so tightly that it was like wire, and would bring blood through the hide of a bullock. Then they would have to consider the thickness of the cord.

The ATTORNEY-GENERAL: Hon. members had lost sight of the fact that the nature of the "cat" was not described in the clause. Why he had felt such a horror of this instrument in the first instance was because of what he had heard from hon. members on the other side; but he had been assured that those who had had any experience of the punishment that used to be inflicted in the army and navy would laugh at this. Really men did not care much about it, as they were able to go about the next day, and did not seem to feel the punishment very severely. He could not describe the nature of the implement because it might be made of leather, but he would take care, as long as he had the honour to occupy the position he now held, that it was not of such a nature as to draw blood or cut the flesh. But what was being proposed appeared to him to be a form of punishment which prisoners would hold in derision, and which would absolutely fail in the object for which whipping was administered. He was informed that when a man was strung up, a belt was placed round his loins and a collar round his neck, and no vital part was touched, and the punishment was nothing like what they were led to think it was by the statements of hon. members opposite.

Mr. KERR: The hon. member for Cook had said that they had brought forward no evidence that men had suffered who had been flogged. In the case he had referred to of a man who had been flogged at Rockhampton, the man would hardly have been so much afraid of a second flogging as he was if he had only got the flicking described by the Attorney-General. The man who did the flogging in Queensland must be a very weak man suffering from fever and ague, and if the flogging was to have no effect what was the use of providing for it in the Criminal Code at all? However, that was not the experience of men they had known who had been flogged.

The ATTORNEY-GENERAL: It is the experience in Queensland, and I challenge hon. members to deny the truth of what I said.

Mr. KERR: He would take the first opportunity he had to make inquiries if blood had been drawn from men who had been flogged at St. Helena. McNeill had given evidence in Rockhampton, but if what they were now told was true he was a most arrant coward.

Mr. GIVENS found from *Hansard* for 1885, page 674, that Mr. Bailey at that time moved the adjournment of the House on this question and described the punishment of flogging which he had witnessed in the gaol as being in excess of the object to be attained. Mr. Bailey stated that as soon as a man received ten or fifteen lashes it was perfect cruelty to go any further. After that it was simply cutting up an inanimate object, and further punishment of the kind was a most barbarous thing.

The ATTORNEY-GENERAL: He does not say that the man's skin was cut.

Mr. GIVENS: His evidence was that it was a brutal cruel thing. That was the evidence of an eye-witness which he thought it as well to give the Committee in addition to the evidence of Captain Pennefather and Dr. Wray, both of whom were inured to such sights, and had—perhaps unconsciously—become callous to the sufferings of prisoners. He was satisfied that if the Attorney-General were to see one flogging he would be the most ardent in his opposition to the use of the cat; but when it was left to gaol officials, who looked upon prisoners as little better than brutes, those brutalities were likely to be retained on the statute-book. He asked

the hon. gentleman in all reasonableness to accede to the moderate suggestion thrown out, and he thought the hon. gentleman owed it to hon. members, because he had promised that he would bring the punishment as much as possible within the bounds of humanity.

The ATTORNEY-GENERAL: He had considered the matter and had drafted an amendment by which this punishment need not necessarily be inflicted with the cat at all. The judge might order twenty-five strokes with a cane, if he thought that would be sufficient for the offence, or he might order so many blows with a leather strap. If he had not satisfied himself by diligent inquiry that the cat as now used was not the same instrument that was in use forty or fifty years ago in the army and navy he would not have been a party to having it retained in the Bill. The doctor was always present, and if fifty lashes were ordered the punishment would be stopped at the tenth lash if the doctor was of opinion that it should stop. He had shown his anxiety to do away with this punishment as far as could safely be done, and had moved the omission of whipping in a great number of cases, but it was the only punishment that would meet some cases. Members should not press the matter too far.

[12·30 a.m.] It was not provided that the whip should be knotted, but he did not want to have a provision in the Bill that would be held up to derision by criminals.

Mr. HARDACRE said the hon. gentleman in charge of the Bill did not see the point. Hon. members on his side of the House wished to prevent the punishment of whipping becoming worse than it was described by the Attorney-General. They objected to the use of the knot.

Mr. LESINA asked the Attorney-General if the House had the power to settle what kind of an instrument should be used? If the House had that power, tenders should be called for the instrument, and a practical illustration should be given of its effects. The medical men just stood by to see how much punishment a man could bear, but a person could be flogged to death in a few minutes, especially in the case of a man with a weak heart. This showed the horrid barbarity of the whole of this system of treatment.

Mr. GIVENS: It had been alleged by the Attorney-General, on the authority of Dr. Wray, that the infliction of the lash in Queensland did not bring blood. [The hon. member here read a long report from the *Telegraph*, describing the effect of the punishment of the lash on three prisoners in 1886, when Dr. Wray was present. In the first case cited, at the eleventh stroke the report stated that blood began to flow, caused by the knots on the cat. At the twenty-fourth stroke, blood was dripping down, and the prisoner presented every sign of insensibility.] He contended that all the evidence published proved that Dr. Wray's testimony was not reliable.

The ATTORNEY-GENERAL: Dr. Wray said that in no case had he seen the true skin cut.

Mr. GIVENS read further from the report, showing the state the men were in after their flogging. Prisoner Phillips asked the doctor, "Doctor, does it bleed all right?" and the doctor replied, "Yes, prisoner."

Mr. J. HAMILTON: What was the name of the reporter on whose evidence you say Dr. Wray's statement was not true?

Mr. GIVENS: The report was published in the *Telegraph*, which was supposed to be a reputable paper, and if it was not true it was the doctor's business to correct it the next day. The fact was also recorded that the blood had been drawn by the knots on the "cat," which was what they were asking the hon. gentleman to eliminate. Attention had been drawn to it in Parliament at the time by three members of the House, and he challenged hon. members to say they were prejudiced, the same as hon. members opposite insinuated they were on the present occasion. He had shown that Dr. Wray's evidence was not so reliable as hon. members on the other side tried to make out. Persons who were present and witnessed the sufferings of prisoners became callous, and any change in the law in the way of humanising punishments had always to be made in the face of strenuous opposition on the part of such people.

The ATTORNEY-GENERAL: Sir Charles Lilley, who had ordered those floggings, was considered a humane judge, and his object was to prevent the crime of garroting from becoming rampant; and he had not the slightest doubt that the idea in having a report of the punishment published in that way—which was not very much to be commended as a rule—and he had never known it done since—was to strike terror into the gangs outside. It certainly had had a marvellous effect, because the crime of garroting ceased instantly, and did not reappear until the punishment in those cases had been forgotten. A few men had suffered for the sake of the community as a whole. The statement in the paper was quite reconcilable with Dr. Wray's statement that he had never seen the true skin cut. A very slight pin scratch on the surface of the skin might make the blood flow. Such spectacles were not pleasant, and he would not witness it for £100, but Parliament always had control of any punishment inflicted. But the Code was not the proper place to go into minute details with regard to the instrument to be used, and it would be competent for any hon. member to carry a resolution later on dealing with that. It was more a matter of administration than legislation, and, although he had no control over that part of the administration of public affairs, he had no doubt that the Home Secretary would very carefully consider any representation he made to him on the subject.

Mr. GIVENS: What he objected to were the knots in the lash. Everything went to show that the punishment was brutal, and in spite of what Dr. Wray had told the hon. gentleman, the fact remained that the backs of the prisoners to whom he referred were one quivering mass of bleeding flesh. [The hon. member quoted from the *Courier* of 14th September in further support of his argument.] He considered this was a matter upon which they were justified in fighting. They had had the assurance of the Attorney-General that he would bring down an amendment that would make the punishment more in accord with modern humane feelings, and they had reason to expect the hon. gentleman to keep his promise. He believed if it were not for the influence of the gaol officials he would have done so. All they asked was that the knots should be abolished from the lash, and the hon. gentleman would do himself honour and credit if he accepted the amendment.

At five minutes to 1 o'clock

Mr. KERR called attention to the state of the Committee.

The CHAIRMAN: I have satisfied myself, recently that there is a quorum within the precincts of the House, and I therefore decline to have the bell rung.

The ATTORNEY-GENERAL pointed out that according to the definition he had moved, the "cat" might be composed of leather thongs which certainly would not have knots in them.

Mr. LESINA (*Clermont*) argued that precisely the same arguments were used [1 a.m.] against the abolition of flogging in the army as were now advanced against the abolition of whipping in that Code,

and they had been proved to be unfounded. If flogging were to be continued in this colony, he should insist that the punishment should be open to the public in the same way as hanging was; and the next time the punishment took place he would, if permitted, be present and take a full report of it, and some snapshots of the back of the criminal. But he protested against the punishment as demoralising and brutal, and as one which did no good to the criminal or to society.

The ATTORNEY-GENERAL: The hon. member who had last spoken objected to the punishment of flogging under any circumstances, but the Committee had affirmed that in a few cases that punishment should be retained, and he would undertake to say that he would recommend to his colleague to introduce a cat consisting of leather which could have no knots in it at all.

Mr. KERR: As there were only two hon. members present on the Government side, and eight on that side, although the Chairman had satisfied himself that there was a quorum present, he would suggest that it was about time to adjourn.

The CHAIRMAN: The hon. member cannot question my decision as to there being a quorum present.

Mr. FISHER said that if that was the Chairman's final ruling, he should endeavour to preserve the rights of hon. members by challenging the Chairman's decision.

Mr. RYLAND said he could hardly understand the Attorney-General saying he could not take the knots out of the regulation cat. It surely would not be going outside the scope of the Code to insert a provision to that effect.

Clause, as amended, put and passed.

Clauses 657 to 665, put and passed.

Clause 666 was amended, on the motion of the ATTORNEY-GENERAL, by the omission of the words, in lines 46, 47, and 48, "and may also, if he thinks proper, direct that the offenders shall be kept in irons for any term not exceeding in any case the first three years of such term of imprisonment," and, in lines 52 and 53, of the words, "and either in irons or not in irons."

Question—That the clause, as amended, be agreed to—put; and the Committee divided—

The CHAIRMAN: There being no tellers for the "Noes," that question is resolved in the affirmative.

At 1·25 a.m.,

Mr. FISHER called attention to the state of the Committee.

There being no quorum present in Committee, the House resumed.

ADJOURNMENT.

NO QUORUM.

Mr. SPEAKER, having counted the House, said: There not being a quorum present, the House stands adjourned until 3 o'clock this afternoon.

The House adjourned at 1·30 a.m.