Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

TUESDAY, 3 SEPTEMBER 1901

Electronic reproduction of original hardcopy

LEGISLATIVE ASSEMBLY.

TUESDAY, 3 SEPTEMBER, 1901.

The SPEAKER (Hon. Arthur Morgan, *Warwick*) took the chair at half-past 3 o'clock.

MEMBERS SWORN.

Mr. Robert Harrison Smith, member for the electoral district of Bowen, and Mr. William John Harlen Moore, member for the electoral district of Murilla, took the oath of allegiance.

PETITIONS.

LICENSING ACT—SUNDAY TRADING.

Mr. KERR (*Barcoo*) presented a petition from certain persons residing at Longreach, Blackall, and Clermont, protesting against any alteration in the Licensing Act with regard to Sunday trading in intoxicants.

Petition received.

Petitions of similar purport and prayer were presented and received as follow:—

By Mr. ARMSTRONG (*Lockyer*), from certain residents of Laidley, Forest Hill, Blenheim, Tent Hill, and Gatton.

By Mr. BURROWS (*Charters Towers*), from certain residents of Charters Towers.

By Mr. GRIMES (*Oxley*), from certain members and adherents of the Methodist Church, Taringa.

PAPER.

The following paper, laid on the table of the House, was ordered to be printed:—Return to an Order, relative to sales under the Special Sales of Land Act of 1891, made by the House, on motion of Mr. Hardacre, on the 28th August, 1901.

QUESTIONS.

ELECTORAL REGISTRATION—OLD AGE ALLOWANCES.

Mr. JACKSON (*Kennedy*) asked the Home Secretary—

1. What is the number of males and females, respectively, receiving the State old age allowance?
2. Can the Minister say whether it is the practice of electoral registration and revision courts to refuse registration to or disqualify men on account of such men receiving the State old age allowance?
3. Will the Minister say whether it is considered that the receipt of the State old age allowance is a disqualification for the franchise under the Elections Act?

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

1. Males, 590; females, 520.
2. I am not aware; but, in response to inquiries, I caused instructions to be sent to electoral registrars not necessarily to treat recipients as being disqualified. This is not intended as a direction to the revision courts, which must exercise their own discretion in the interpretation and application of the Elections Act on this question, pending any authoritative judgment by a superior tribunal.
3. The answer to this question involves an expression of opinion upon a point of law that I am not prepared to give, further than as set forth in the answer to the second question.

DR. MAXWELL'S REPORT ON SUGAR INDUSTRY.

Mr. GIVENS (*Cairns*) for Mr. Lesina (*Clermont*) asked the Premier—

Has he had any correspondence with the Federal Premier relating to the circulation of Dr. Maxwell's report on the sugar industry?

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

Yes. a telegram from Mr. Barton, a copy of which is as follows:—

"Melbourne, 8th August, 1901.

"Have wired Dr. Maxwell to send copy his report to reach you day afte it reaches me and request you will print it.

"EDMUND BARTON."

AGRICULTURAL LANDS PURCHASE ACTS AMENDMENT BILL.

THIRD READING.

On the motion of the SECRETARY FOR PUBLIC LANDS (Hon. W. B. H. O'Connell, *Musgrave*), this Bill was read a third time, passed, and ordered to be transmitted to the Legislative Council, for their approval, by message in the usual form.

ABORIGINALS PROTECTION AND RESTRICTION OF THE SALE OF OPIUM BILL.

COMMITTEE.

Clauses 1 and 2 put and passed.

On clause 3—

In section nine of the principal Act the words "such district" are repealed, and the words "the same or any other district" are inserted in lieu thereof.

Mr. MAXWELL (*Burke*) asked whether the clause meant that aboriginals could be removed from one district to another, or whether it merely meant that they could be removed from one reserve to another reserve in the same district?

The HOME SECRETARY (Hon. J. F. G. Foxton, *Carnarvon*): That was what could be done now.

Mr. W. HAMILTON: Against their will?

The HOME SECRETARY: Yes. It frequently became necessary to transport an aboriginal from one district to another because he was a danger, not only to the white population but to the aboriginal population, and also, perhaps, to himself. He could mention the case of one man, who, there was no doubt whatever, had committed murder, and it became necessary, in the interests of the whole district, which was principally devoted to aboriginals and mission stations, to remove him to another part of the colony. There was no legal evidence that he committed the murder, but it was a matter of common notoriety among all the aboriginals that he had done so, and he was a terror to his tribe and to all the surrounding tribes. He (Mr. Foxton) therefore took it upon himself to have him removed to Fraser Island from the Northern portion of the colony. The man was now a different character. Being removed from his surroundings, he was a quiet, decent man. He was satisfied he had done the right thing, and he wanted to have the power to do that without any question of his overstepping the law. Of course, the aboriginal might have commenced an action against him for false imprisonment. Still there was not the slightest doubt that the man was a murderer, although they could not prove it. Then, again, it was desirable frequently to remove aboriginals from a district in which they were practically starving, and where there was no medical attendance for them, to some district where the conditions of existence were more favourable, and where they could be provided with medical attendance. The clause was designed to amend the present law in such a way as to enable aboriginals to be removed from one part of the colony to another in such cases. Very frequently an aboriginal district was a district proclaimed under the Act, whilst the district of a protector was a very small area indeed—it might be a petty sessions district—and there was no reserve in the protector's district to which aboriginals could be removed, so that it was absolutely necessary, for the effective working of the Act, quite irrespective of the instances he had already mentioned, to have the power of removal from one district to another. He would take the Cairns district as an illustration. There was an excellent mission station at Yarrabah, in the Cairns district. He was not certain, but very probably there was a protector at Herberton; and, under the law as it stood, it would not be practicable to remove an aboriginal from the Herberton district to Yarrabah in the Cairns district. Of course that was absurd. There was no magic about a petty sessions district as far as the blacks were concerned, and it was very necessary that power should be given to go over the boundaries.

Mr. MAXWELL pointed out that the protector of aboriginals in North Queensland talked about taking blacks from somewhere about Winton, and said there was an island somewhere in the Gulf that would make a very desirable place for them. The question was whether removing them in that way would not wipe them out altogether.

Mr. W. HAMILTON (*Gregory*) did not think any good would be done by taking the blacks away from the interior to the coast against their will. As far as the peaceable blacks were concerned he thought they should be allowed to remain, though in the case of a murderer it might be well to remove him. If provision could be made for feeding them on the stations they would be better off. With regard to getting medical attendance, he did not think disease was so rampant as it was made out to be, or else it could not be seen by outward signs. He thought it would be better to leave the inland blacks in their native habitations and appoint officers in charge of police as local protectors to see that they did not go short of food. In his opinion that was all that was required.

Clause 3 put and passed.

Clause 4 passed with a verbal amendment.

On clause 5, as follows:—

(1.) In section thirteen of the principal Act the words "for twelve months only, but may at any time, before the expiration of such period, be renewed for any period not exceeding twelve calendar months, to commence from the expiration of the previous period of twelve months," are repealed, and the words "for such period not exceeding twelve months as the protector may fix, but may at any time before the expiration of such period be renewed for such further period as he may fix, not exceeding twelve months, to commence from the expiration of the previous period," are inserted in lieu thereof.

(2.) Every permit to employ an aboriginal or half-caste, and every agreement for such employment granted under the provisions of the principal Act, shall be in the prescribed form.

Mr. W. HAMILTON thought this was a cruel clause. It was a clause whereby anybody who had an aboriginal in his employ bound down for a certain period could renew the agreement before the indentures had expired. There were any amount of blacks got to sign those agreements not understanding the nature of the agreement, and before the agreement had expired a fresh agreement was made. It was virtually making slaves of the aboriginals. He thought a blackfellow should be free to work for anybody he liked, and free to leave his employment when it did not suit. In Western Australia he had seen blacks brought up a day or two before the agreement expired and made to touch a pen in order to make a fresh agreement. He had seen them refuse to sign, and they had been dragged up to touch the pen, when the justice of the peace made a cross. One case came under his notice in Western Australia where a blackfellow was bound for another twelve months against his will; and he dared say there were places in Queensland capable of doing just the same thing. There were people who employed blacks so that they would not have to employ whites, and they gave the blacks very little for their work. If a blackfellow had a good master he would not want to run away. He might go for a walk about, which he should be allowed to do, because a blackfellow must have a walk about some time in the year. Under this clause a blackfellow could not go for a walk about, because he would be a servant from one year's end to the other, and he would never be a free man.

The HOME SECRETARY: The hon. member quoted Western Australia. Had they an Act like this in Western Australia?

Mr. W. HAMILTON: They have an Act under which aboriginals are indentured.

The HOME SECRETARY: Had they got protectors? And was it a necessary incident of the hiring that the approval of the protector should be obtained?

Mr. W. HAMILTON: The protector cannot be there every time a fresh agreement is drawn up.

The HOME SECRETARY: No fresh agreement could be made under this measure unless the protector agreed to it. If the hon. member read the clause with the words proposed to be inserted he would find that was so. He thought the hon. member had been reading the part which was to be omitted from the section of the Act. The approval of the protector must be obtained, otherwise the agreement was absolutely null and void.

Mr. GIVENS (*Cairns*) thought there was a great deal in the contention of the hon. member for Gregory, for he himself knew [4 p.m.] cases where "boys" were compelled to sign on again when they were not willing. The Bill provided that they could be engaged for twelve months; but at the expiration of that period the protector was given power to sign them on again for a further period not exceeding twelve months. That system might go on indefinitely, so that the contention of the hon. member for Gregory still held good. Another matter that he wished to draw the Minister's attention to was that the diseases and abuses by which the blacks were being wiped out were introduced amongst them by aliens, chiefly by Chinese. He would like a provision to be inserted in the Bill absolutely prohibiting the signing on of aboriginals to Chinese, for anyone who read the papers throughout the colony would have noticed time after time that the aboriginals in Chinese camps had been educated in the habit of opium smoking, a practice which deprived them of their senses and practically ruined them. The blacks also contracted contagious diseases through coming into contact with Chinese and other aliens, and as the Home Secretary was actuated by a sincere desire to do the best he could for the blacks, he would no doubt embody the suggestion he had made in the Bill. It would make the measure more workable and give the aboriginals more protection.

The HOME SECRETARY: There was no doubt something in what the hon. member had said. In the 1899 Bill there was a paragraph in this clause prohibiting the employment of aboriginals by aliens, but he was thoroughly satisfied that the aliens which the hon. member referred to were by no means the worst employers of aboriginals. He had any quantity of evidence to prove that the worst offenders in the way of the ill-treatment of aboriginals were whites.

Mr. GIVENS: What about disseminating the opium habit?

The HOME SECRETARY: It was about six of one and half-a-dozen of the other. No doubt Chinamen supplied the blacks with opium, but he must say in perfect fairness to them that they were by no means the only people who did so. It so happened that Dr. Roth—whose zeal in caring for the wellbeing of the aboriginals could not be doubted and which was equal to the zeal of anyone in the State—was strongly of opinion that to insert the provision which was in the Bill of 1899 in this Bill would be a distinct disadvantage to the aboriginals, because it would absolutely exclude, without any recall or variation, the employment of aboriginals by some of their very best employers. For instance, there were a number of pearl-shellers who treated the blacks they employed very well, while, on the other hand, there were a number of Europeans who treated the aboriginals they employed very badly indeed. He was very pleased to say that only a few days ago a number of convictions were obtained at Thursday Island, which he hoped would be a warning to both classes. He thought it would be best to leave this an open question for the discretion of the protector. Only a couple of days ago he had received a telegram from Dr. Roth, in which he intimated that after securing a conviction against a Manila man called Ambrosia—an employer of aboriginals—he would prohibit any aboriginals from going on any boats of which this man was the owner or master, or had anything to do with. That would be the policy all through, and so long as he was Home Secretary, and Dr. Roth was protector in the North, that policy would be followed.

Mr. GIVENS did not think the Home Secretary grasped the gravity of the position.

The HOME SECRETARY: Oh, yes, I do.

Mr. GIVENS: The Bill had been introduced chiefly for the purpose of protecting the aboriginals.

The HOME SECRETARY: Chiefly? Entirely!

Mr. GIVENS: In many cases they wanted not only to protect the blacks against bad employers, but against themselves. In his own district, where there were a great number of aboriginals, he knew they derived their supply of opium almost entirely, if not solely, from the Chinese in the district—and it was not pure opium, but charcoal opinion, which was opium in a very vile form.

The HOME SECRETARY: The hon. member's information is not complete.

Mr. GIVENS: He would read from the report of the Northern Protector for 1900. The following occurred in it on page 5:—

> According to the experience of the protector at Townsville (Inspector Meldrum) the supply of opium to aboriginals is confined principally to Chinese gardeners and small storekeepers, who require to be strictly watched. Warden Haldane, in his report (1899) to the Under Secretary for Mines, speaks of the Atherton Chinese as follows:—

And he (Mr. Givens) fully bore this out—

> "These Asiatics are . . . located on the rich scrub land around Atherton, paying the selectors as much rent per annum as the original cost of the purchase of the land from the Crown. The result is the formation on these selections of Chinese camps, which are anything but conducive to the health and morals of the European residents, and certain destruction in the near future of the once robust native population, by their supplying opium and other abominations among them. One of the most repulsive cases of leprosy that I have seen came from these camps, and very recently a deliberate murder was committed on the main road on one of their own countrymen. Fines have been inflicted on these Asiatics, in the aggregate amounting to £80, and, in second offences, peremptory imprisonment for six months, for supplying opium to the aboriginal population, but with little or no effect other than to cause them to use more caution in carrying on the traffic, such as leaving a pipe with opium at a stump in the scrub for the aboriginals to visit at their leisure, thereby incurring no risk of prosecution."

That was the statement, not of an interested politician, but of a departmental official, and he pointed out that, if this thing was allowed to go on, it meant the absolute destruction of the aboriginals in that district. From his own knowledge he knew that in a number of Chinese camps the aboriginals lived in a continuous state of half stupor and filth, and indulged in abominations which they would never have thought of were it not for the Chinese. It was scarcely commendable, because one or two Europeans carried on as badly as Chinese, to class them all as bad as Chinese. Perhaps it was a regrettable fact that some few Europeans supplied opium to the blacks, and did not treat aboriginals as they ought to be treated, but the fact remained that Europeans as a class were better employers than Chinese. A report like that of Warden Haldane was a sufficient indictment to damn the whole thing. He knew it was useless to move an amendment on the clause if the Home Secretary would not adopt it, but at the same time he held that the acceptance of his suggestion with regard to prohibiting Chinese from employing aboriginals would further the object which the hon. gentleman had in view, and conduce to the well-being of the unfortunate aboriginal population.

The HOME SECRETARY: The hon. member's argument would be very excellent if it were apposite to the question; but it was not. The whole argument of the hon. member was to prevent by all possible means the employment of aboriginals by Chinese. The Chinese were by

no means the only persons who supplied opium to aboriginals, but apparently the hon. member could only see the matter through a pair of Cairns spectacles. He (the Home Secretary) had information which came from all parts of the State, and he was glad to see that there were hon. members present who by interjection showed that they recognised that there were mean whites, both men and women, who supplied aboriginals with opium. All the argument of the hon. member was directed to the point that in order to prevent the supply of opium to aboriginals they should prevent Chinese employing them. But it did not require an aboriginal to be in the employ of a Chinaman in order to enable that Chinaman to supply him with opium, nor did it necessarily follow that by preventing the employment of aboriginals by Chinese they would prevent them being supplied with opium. In fact, if an aboriginal was in the employment of a Chinaman, as a rule it had been found that the Chinaman took good care that the aboriginal did not get any opium, because he knew that if he did his permit would be immediately cancelled. It was Chinese and white people who were not employers at all who for the sake of gain supplied the unfortunate aboriginal with opium charcoal at an excessive price. The hon. member had quoted from the report a matter which had nothing to do with the point at issue. He (the Home Secretary) would quote something from the report which showed the desirability of permitting in certain instances Chinese or other Asiatic aliens to employ aboriginals. The hon. member must have skipped the passage he was about to quote, because it was found on page 1 of the report. It was as follows :—

In my last report I expressed myself as strongly adverse to any Chinese or other coloured aliens employing aboriginals, especially when the blacks can obtain equally good employment elsewhere, but that, on the racial account only, I could not conscientiously refuse any such respectable and law-abiding citizens the right to work them. That many such reputable ones are to be met with goes without saying. For instance, in the Mackay sub-district, the local protector (Sub-inspector Martin) reports as follows:—"My experience here is that the Chinese farmers who employ aboriginals treat them very much better than most of the white people who employ them."

Mr. BROWNE: That is paying a big compliment to the Chinese.

The HOME SECRETARY: If it was true, he did not see why it should not be stated in the report. Some people regarded the Chinaman as a bogey, and could not see that he could do anything good, or honest, or proper, but he did not hold that view, and he saw no reason why credit should not be given where credit was due, although it was to a Chinaman.

The Chinese offer better wages, and, what is more, pay the aboriginals their wages when due; they also house and feed them well. On the other hand, the Europeans have only themselves sometimes to blame for this condition of things—aliens being allowed to employ blacks. Atherton forms a case in point: Here there are some 250 aboriginals occupying from time immemorial some 64 square miles of rich scrub, which is full of native food, both animal and vegetable. Unfortunately for the autochthonous population this land is rapidly being felled and cleared, and the blacks have accordingly to travel further and further afield to find a sufficient supply of their natural food. There are upwards of 230 Chinese employed by, or renting land from, over seventy out of the seventy-six European selectors, with the result that the blacks are, necessarily, mostly employed by Asiatics. If only to prevent the able-bodied aboriginals from starving—these rich lands being now all of them taken up, and most of them fenced—I cannot instruct the local protector to prevent Chinese employing them (as was urged by the Atherton Progress Association some two and a-half years ago). At the same time I have given orders that blacks are not to be allowed to work for any coloured alien once convicted of supplying opium.

That put the case very fairly, and was to the point. He might tell the hon. member again that the preventing of the employment of aboriginals by Chinese would not prevent Chinamen from supplying aboriginals with opium, and that as a rule Chinese who employed aboriginals did not supply them with opium, because it was not to their interest to do so. There were exceptions to that, for he regretted to say—just as the hon. member for Cairns regretted that he should give any credit to Chinamen—that there were certain stations which supplied the aboriginals with opium.

Mr. BROWNE: I did not say there were not. I only said that what you said was a very big compliment to the Chinese.

The HOME SECRETARY: Well, some of the white men did not deserve the compliment. In another district the complaint had been made by station-owners that they could not get the blacks to work for them, because on one station the aboriginals were deliberately or surreptitiously supplied with opium. He was afraid that that practice would continue until this Bill became law and the minimum fine was made £20. It was ridiculous to try and work an Act like this under the existing circumstances, if the justices were allowed to take advantage of the Justices Act and reduce the fines to 10s. Of course, the profit on one sale of opium was probably greater than that. That was one reason why he hoped the House would remedy the present state of things. He was glad to say that the station he had referred to was not managed by a Chinaman, but there was a Chinese cook there, and it was through him that the manager contrived to supply the aboriginals with opium. He was very glad to say that convictions had been obtained against both the manager and the cook.

Mr. GIVENS: The hon. gentleman's remarks supplied the very best argument why the provision that he had suggested should be included in the Bill. Many of the station managers had proclaimed that they could not get the aboriginals to work for them because other stations supplied them with opium.

The HOME SECRETARY: I believe that is the exception. As a rule it would not be the case.

Mr. GIVENS: Exactly the same state of things held good with regard to the employment of aboriginals by Chinese. The white people complained that they could not get the aboriginals to work for them because the Chinese held out the additional attraction of supplying opium. The Chinese did not supply the aboriginals with opium for the sake of the profit that they would make out of the opium so much as because of the profit that they expected to make out of their labour.

The HOME SECRETARY: Oh, no!

Mr. GIVENS: That was chiefly the case. The opium was sometimes supplied as payment for services rendered, and in some cases he regretted to say as payment for immoral purposes. Though the Home Secretary said it would be almost impossible to eradicate the evil, it would be a good thing if he adopted the suggestion which he had made.

The HOME SECRETARY: There is another clause which will very much better enable us to stop it.

Mr. GIVENS: Possibly it was almost impossible to get convictions, because the Chinese were so very cunning about it.

The HOME SECRETARY: We get plenty of convictions, but the fines are too small.

Mr. GIVENS: He hoped that the hon. gentleman would see his way to adopt the provision. He believed that the only way to deprive the aboriginals of opium would be to absolutely prohibit any contact between them

and the Chinese. They knew from experience that the drug was most detrimental to the welfare of the aboriginals.

Mr. JACKSON: Is it worse than the grog?

Mr. GIVENS: The hon. member for Kennedy was very strong on the drink question, but he thought the hon. member would agree with him that opium was even worse than drink.

Mr. JACKSON: If it is abused, but if it is taken in moderation it is not so hurtful as some people imagine.

Mr. GIVENS: His experience was to the contrary. He had known a few who had started taking opium in moderation, and it got such a hold on them that they could not do without it, and its effects were infinitely worse than grog. So far as he knew there was not a single white employer of aboriginal labour who supplied the aboriginals with opium.

The HOME SECRETARY: I know of many instances.

Mr. GIVENS: He was speaking of the coast districts.

The HOME SECRETARY: Yes, and about the coast districts there are plenty who do.

Mr. GIVENS: In all his experience, he had never known or heard of white men supplying aboriginals with opium.

The HOME SECRETARY: There was a conviction in the Cooktown district only the other day.

Mr. GIVENS: He knew plenty of Chinese who supplied it, and he knew plenty of aboriginals who, after working for those Chinese for twelve months, were physical wrecks owing to the opium habits that they had contracted. Unless some drastic provision was introduced to put a stop to the evil, it would continue and would increase.

Mr. BROWNE (*Croydon*): He was rather sorry that the hon. gentleman had omitted the provision which was inserted in the Bill of 1899. On that occasion it was not so much the Chinese who were in question as the aliens who employed aboriginals in the pearl-shelling and bêche-de-mer fishing-boats. The hon. member for Cook, who knew all about the pearl-shelling industry, strongly supported the clause when he (Mr. Browne) moved it, and spoke from his personal knowledge of the abuses which existed among the aboriginals so employed. It was perfectly correct, as the Home Secretary had said, that white people also supplied the aboriginals with opium. Some four years ago, when he introduced a motion on the subject, he produced a lot of evidence—among others, from the Government Resident at Thursday Island, the Hon. J. Douglas, who stated that he had been informed that the whites declared that, if they wanted to get the Binghis to work for them, in self-defence they had to supply them with opium, because otherwise they could not get them. Men who were perfectly honourable in every other way had told him that the aboriginals had got so much into the opium habit
[4·30 p.m.] that if they wanted to keep them at all they had to get them supplied with opium, either surreptitiously or otherwise. As he had said, it was more on account of the pearling and bêche-de-mer trade that the amendment was introduced, and the Home Secretary, although on that occasion he had a great deal of sympathy with it, thought it would act rather drastically, but when he found that the consensus of opinion was in favour of it he inserted the provision. With regard to the renewal of permits to work, he thought a way could be found out of the difficulty. He would suggest that the words "at any time before the expiration of" be omitted, with a view of inserting the words "may at the expiration of such period be renewed for such further period as he may fix, not exceeding twelve months." That would put it within the power of a protector to block an agreement, or renew it, but not before the other agreement expired. If it was renewed before, abuses might arise which were not likely to arise if the employer knew he could not get a renewal until the expiration of the first agreement.

The HOME SECRETARY: There was a difficulty about the hon. member's suggestion. The provision was designed to meet the case of Binghis employed in swimming-diving. The hon. member would know that when a pearling boat was out on a cruise, perhaps 200 or 300 miles from Thursday Island, it would be very inconvenient to have to come into port on the day on which the agreement expired, and it might cause considerable loss. The exigencies of the pearling calling were such that if the vessels were on good ground it would be a great loss and hardship to have to break up the work and come into Thursday Island.

Mr. BROWNE: Could you not make an exception in the case of boats, and say that the agreements should terminate on the return of the boats to port?

The HOME SECRETARY: Then abuses would creep in, because the owner would say, "I was coming in to Thursday Island as soon as I had finished." That was the reason why they were compelled to come in to Thursday Island a couple of months before the twelve months expired, and if the aboriginals expressed themselves as satisfied to go out again the agreement would be sanctioned.

Mr. W. HAMILTON: Could you not alter the clause so as to make it apply only to shipping?

The HOME SECRETARY: It would not then apply to land occupations at all. If a man came to a protector at the end of nine months, instead of at the end of twelve months, the protector would naturally say, "I will talk to you about a renewal in two and a-half months' time. You have not very far to come in, and we will deal with the renewal when the twelve months have expired." He could assure hon. members that everything had been very fully considered, and the Bill had been referred to Dr. Roth, who entirely approved of every portion of it.

Mr. BROWNE: It is a great improvement, I admit.

The HOME SECRETARY: The provisions contained in the measure were absolutely necessary if they were going to do their duty by the blacks. It was very desirable that the protectors should have some discretionary power, because they were always men who had the welfare and interest of the aboriginals at heart. He thought it would be better to leave the clause as it stood, rather than risk the aboriginals being held to their work one day after their time had expired.

Mr. REID (*Enoggera*): Everything seemed to be left to the protector, and it appeared to him that the aboriginal was regarded simply as a chattel as between the employer and protector. His experience of the aboriginals in the West was that the big majority of them were able to look after their own affairs. They had a very fair idea when they had a good boss and were well treated. The clause gave a protector power to sign on an aboriginal whether he liked it or not.

The HOME SECRETARY: No, no.

Mr. REID: There was nothing to indicate that the aboriginal was consulted in any way. As far as supplying opium was concerned, his experience of the Western districts was that there was very little difference between the Chinese and the mean whites. If it was within the power of the Home Secretary and the protector to stop traffic of that description it should be put down with severity. There was not the slightest doubt that in most parts of the Western

country the aboriginals were simply slaves to the opium habit. The hon. member for Kennedy had interjected asking whether drink was not worse in its effects than opium, but he had never seen men fall as low from drink as he had seen men who were addicted to the use of opium. Those who sold it to aboriginals should be very severely handled. He, as well as the Western members, could endorse what the Home Secretary said with reference to its use in stations. Some stations got blacks simply by supplying them with opium, and all those blacks got was their tucker and opium. On stations where opium was not given they found it very hard to get blacks to work. He had known cases in which managers tried to put the practice down, but their Chinese cooks or gardeners gave it to the blacks, and they had never been able to sheet it home to them. His experience was that the Chinese and whites were equally bad in regard to supplying opium.

The HOME SECRETARY: It was very patent that the hon. member had not taken the trouble to look up the Act they were amending before he spoke, or he would have saved the Committee from the infliction of his speech. Section 12 of the principal Act provided—

> A protector may permit any aboriginal or half-caste who before the commencement of this Act was employed by any trustworthy person to continue to be so employed by such person, and, in like manner, may permit any aboriginal or half-caste not previously employed to be employed by a like person.

There was no compulsion about it. There was no agreement between the protector and the employer at all. The protector merely granted a permit to the parties to enter into an agreement for hiring, and that agreement was void unless there was a permit—which was only a permit.

Mr. FOX (*Normanby*): With a view to assisting the hon. gentleman in charge of the Bill, he wished to call attention to a remark made by the hon. member for Gregory. It was an acknowledged fact that aboriginals liked to get away from their employment for a fortnight, or a month, probably, in the twelve months, and, if it was not already the law, some provision should be made for giving the boys a spell—say with the consent of the local police magistrate—for a certain period, without allowing the employer to have the boy punished. It was a notorious fact that the boys would take a holiday, whether it was in their agreements or not. On the other hand, as the agreement was a hard-and-fast one for twelve months, if a boy went away, his employer would be bound to pay him his wages for the whole twelve months. He would be very glad if the Home Secretary could suggest some way to deal with the question.

The HOME SECRETARY was not aware whether such a provision was inserted in the agreements, but it was quite likely that some provision was made for allowing aboriginals to get away for a short while; but he imagined there were very few employers who would refuse to give a boy a holiday because, as the hon. member said, he would go whether he got leave or not, and any employer would be glad to have a boy back after a fortnight or three weeks' holiday as he would work all the better. In any case if an employer treated his aboriginal servant harshly the permit could be revoked by the protector under section 13 of the Act. He was not aware whether there was any provision of the sort introduced into the agreements, but in some districts it was very probable that there was some provision enabling an aboriginal to absent himself for a certain period, and that his wages should not be affected as a result.

Mr. MAXWELL: It would be useless to the aboriginal to have such a provision inserted in the agreement, because he wants to go when it pleases him, and not when it pleases his employer.

The HOME SECRETARY: Of course they all wanted to go for a holiday when it pleased themselves; but still, if a boy wanted to go, he would go whether he got leave of absence or not, and his employer would be very glad to see him back, because he would be contented, and would work all the better for his holiday.

Mr. CURTIS (*Rockhampton*) asked whether the express sanction of the protector was necessary in the matter of giving casual jobs to aboriginals? A few days ago a gentleman in the Rockhampton district had told him that there were a number of aboriginals knocking about the district looking for casual jobs, but that the residents were afraid to employ them because another resident had recently been fined for employing an aboriginal without an agreement. The result was that those aboriginals were half-starved. His informant had asked him to bring the matter under the notice of the Home Secretary, and he had called that morning to see the hon. gentleman, but he was engaged, and he thought the present was a fitting opportunity to bring the matter under the notice of the Minister and of the Committee. It seemed absurd to make it imperative that a formal agreement should be entered into before anyone could give an aboriginal a casual job.

Mr. W. HAMILTON: They carry the Act out in that way anyhow.

Mr. CURTIS: If it was not necessary, he could not understand why that person should have been fined. Certainly if that was the law it should be amended. Many aboriginals gained their living by doing odd jobs now and again, and if it were made imperative that a form of agreement should be entered into it would operate very heavily against the aboriginals themselves. He would ask the Home Secretary whether it was absolutely essential—under the principal Act it was necessary that in such cases—casual work given to aboriginals—a written agreement must necessarily be entered into, and whether the express sanction of the protector was necessary

The HOME SECRETARY: This matter had had a good deal of attention. Section 14 of the principal Act provided that—

> Any person who . . . employs an aboriginal or a female half-caste otherwise than in accordance with the provisions of this Act or the regulations, or suffers, or permits an aboriginal or a female half-caste to be in or upon any house or premises in his occupation or under his control, shall be guilty of an offence against this Act, and shall be liable, on conviction, to a penalty not exceeding £50, and not less than £10, or to imprisonment for any term not exceeding six months.

No doubt that was a very drastic provision. The hon. member would observe that not only was it an offence against the Act to employ aboriginals except under its provisions—that was, with a permit—but it was also an offence against the Act to allow any aboriginal or female half-caste to be in or upon any house or premises in a person's occupation or under his control. That, as he had said, was a very drastic provision, but in an Act of that kind it was necessary to give very ample powers. At the same time it was necessary that such an Act must be administered with a due modicum of common sense. Although technically and strictly speaking any person harbouring or allowing aboriginals to go about his premises casually was an offender against the Act, yet most explicit instructions had been given to protectors and members of the police force, by circular, that where it was *bonâ fide* casual employment no notice was to be taken. He thought that was the proper way to administer the Act. They could not afford, in the interests of the aboriginal, to forego such a provision,

but they could allow to go unnoticed and without interference occasional employment such as the hon. member spoke of; and that was the practice. If the hon. member had any instance in his mind—any cases where people had been unnecessarily harassed in consequence of their having given bread, sugar, meat, or a little money to an aboriginal for occasional work done—they would be inquired into, and the attention of the officer concerned would be called to the explicit instruction that had already been given, that people were not to be worried when they were dealing fairly and honestly by the blacks.

Mr. CURTIS: A man was fined the other day for it. I do not know the facts myself.

The HOME SECRETARY: He should like to hear the other side. It might be the case of a man constantly employing aboriginals and sheltering himself under the plea that it was only casual employment. If it was more than casual employment there was no difficulty. If they were really respectable people they had only to write to the nearest protector and ask for a permit.

Mr. CURTIS: But anyone can lay an information under the Act as it stands, and the justices would have to fine the person convicted.

The HOME SECRETARY: Not so. If a very officious officer—and even police constables were not angels—was to unnecessarily worry people with that provision of the Act he would be told to distinguish between casual employment of aboriginals without permits and that which was more than casual employment. For more than casual labour a permit would have to be obtained. With casual employment it was not proposed to interfere.

Mr. FORSYTH (*Carpentaria*) said the thanks of the Committee were due to the Home Secretary for the very clear explanation he had given in connection with that matter. He had seen cases himself up North where blacks occasionally came into the township and chopped wood or carried water for a day, and left town in the evening again. A great many aboriginals in the camp were quite incompetent to work for twelve months, or even for one month, but they could do casual labour, and it was only a kindness to allow people in the towns to give them casual labour for bread, or beef, as the case might be. Therefore, he was pleased that those charged with the administration of the Act had such discretionary power given them. With regard to the remarks about slavery in connection with the blacks——

The HOME SECRETARY: The remark was that they were slaves to opium.

Mr. FORSYTH: Section 15 of the principal Act showed that the agreement must be explained to the aboriginal, that he must be satisfied with it and be a party to it. It was not a case of a protector going to a blackfellow and saying he must go to a certain place and work for a certain man. Every agreement contained the names of the parties, the nature of the service to be rendered, the period during which the employment was to continue, the remuneration to be paid, the accommodation to be provided, and the condition on which the conditions might be determined by either party. He must confess that he had considerable sympathy with the remarks of the hon.

[5 p.m.] member for Gregory, whose electorate adjoined his, and whose experience on stations where aboriginals were employed was very great; at the same time he had made a point of observing the condition of the aboriginals on the stations he had visited, and his experience was that on the stations where they were employed they were treated remarkably well. They had plenty to eat; they had comfortable lodging, and they seemed particularly happy. As far as stations were concerned, his opinion was that it would be infinitely better to have no permits at all; but he could understand that it was necessary to have permits for those employed on the boats, and he thought it should be compulsory for the wages to be paid to the protector or the police magistrate, or some other officer appointed to receive them on behalf of the aboriginal. He strongly advised the Home Secretary to insert "must" instead of "may." There were plenty of aboriginals on stations inland who thoroughly understood the nature of the agreement into which they entered, but he believed in many cases blacks were taken away on boats after entering into agreements without knowing very well what they were doing. In connection with the people at Thursday Island there should be some official to receive the wages of the aboriginals and look after their interests in regard to their agreements so as to prevent unscrupulous persons from taking advantage of them. With regard to renewing the agreement before the end of the twelve months he agreed to a certain extent with the leader of the Opposition. He thought there should be some specified time, and he thought it might be provided that the agreement might be renewed at any time within the period of two months before the expiration of the agreement.

HON. G. THORN (*Fassifern*) was in accord with the views expressed by the hon. member for Gregory, who seemed to understand the question thoroughly; and if those views were embodied in the clause he thought it would receive general support throughout the length and breadth of the land. He did not believe in this twelve months' agreement. In many cases the aboriginal did not understand it, and it would be a loophole of escape from paying wages if he went away. The blacks wanted to "walk about," as it was called, two or three months in the year, and that practice obtained in the Southern as well as the Northern part of the colony; and that being so the agreement might be a loophole of escape from the payment of wages. With regard to pearl-shelling and bêche-de-mer fishing, he thought it was a mistake to allow the agreement to be for twelve months; he thought it should be for only a few months at a time. He also agreed with what had been said in regard to the payment of the wages. He thought aboriginals were entitled to the same wages as whites when they did the same work; and he knew two employers of aboriginals who paid them the same wages as whites. He was not aware of much opium-smoking amongst the aboriginals in the Southern part of the colony, but he knew of a case within the last two months where a Chinese gardener gave opium to an aboriginal, and though he was an excellent gardener he was sacked instantly by his employer. It was not every employer who would sack his best gardener under the circumstances. He thought the clause might be amended in the direction suggested by the hon. member for Gregory, making the term of agreement less than twelve months; and on the stations where the pastoralists treated the aboriginals humanely—as most of them did—they should not be hampered by having to get permits. He trusted the hon. member for Gregory would move an amendment making it less than twelve months.

Mr. BROWNE: Twelve months is the maximum period.

HON. G. THORN: That was too long. These blacks always liked to walk about some time every year, as the hon. member for Gregory had said, and they should not be tied down for twelve months.

The CHAIRMAN: I wish to remark that the discussion is becoming somewhat irregular.

HONOURABLE MEMBERS: Hear, hear!

The CHAIRMAN: It is gradually drifting into second-reading speeches. There is no mention in this clause of opium or wages. The question of wages will come in when we are discussing clause 11. Hon. members should now confine their remarks to the clause before the Committee.

Mr. ANNEAR (*Maryborough*) hoped he would be in order in saying what he was going to say. This clause dealt with permits to aboriginals throughout the colony to work for employers. As hon. members were aware, there was an aboriginal station at Fraser Island. It was first started by the Government, and the officer in charge there was directly responsible to the Home Secretary's Department, but the system of working that station had been lately changed, and the management had almost passed away from the Home Secretary's Department. He believed the station was managed by the Rev. Mr. Gribble.

The HOME SECRETARY: No, he is at Cairns now.

Mr. ANNEAR: He was there not long ago.

The HOME SECRETARY: Yes, last year.

Mr. ANNEAR did not agree with the remarks of some hon. members that it was desirable to have aboriginals working in the towns of the colony. For many years aboriginals were employed in Maryborough, but the people there clamoured against it, and they were removed, and their removal had had a good effect on the town. It was far better to keep the aboriginals out of the towns, where they could get drink. No doubt many hon. members had seen scenes in Maryborough—crowds of drunken aboriginals kicking up rows.

Mr. LESINA: I rise to a point or order. Is the hon. member in order in discussing a particular locality where aboriginals were employed? Clause 4 only deals with permits.

The CHAIRMAN: The hon. member is quite in order in referring to permits, because clause 5 refers to them. But I think he was rather drifting into second-reading remarks.

Mr. ANNEAR: He wondered that the hon. member did not rise to a point of order when hon. members on his own side had been discussing, for the last hour and a-half, the very subject he was referring to. He was opposed to the employment of aboriginals in the towns, and he rose chiefly to ask how the new management at Fraser Island was progressing?

The HOME SECRETARY believed the station was now under very good management.

Mr. MAXWELL: Are you in order? (Laughter.)

The HOME SECRETARY thought he was rather in a difficulty, owing to the hon. member's query.

Mr. ANNEAR: We are always allowed to discuss how institutions are progressing and to ask for information.

The HOME SECRETARY: It was not necessary for him to go into the whole history of the station at Fraser Island. It was started as a Government station under Mr. Harold Meston, and had recently been handed over to the Anglican Board of Missions, since when it had had a somewhat checkered existence. A change of management was always likely to bring that about. However, he believed the station was in excellent hands, and that it was doing very excellent work. It was true that some short time ago some aboriginals escaped and went to Maryborough, but most of them had been returned to the island last Saturday. There were still six men, six women, and four children in and about Maryborough, and he had issued instructions to have them removed to the island immediately. All the difficulties experienced in initiating the new *régime* had now been removed, and the mission was likely to be a great success—as great a success as any mission at Fraser Island could possibly be. The difficulty there was that there was no land suitable for gardens or keeping stock. Otherwise, it had been very successful, and it was very desirable to keep the mission station on, seeing that it was an island to which they could send blacks who could not be trusted in and about towns.

Mr. W. HAMILTON believed that blacks employed on pearl-shelling boats should be under some engagement and under some supervision by an inspector, but he hoped the Home Secretary would see his way clear to allow the blacks about stations to work for whom they liked and where they liked. A number of station-owners had told him that they did not need to indent blacks, for if they were treated well they would never go away; but they were forced to make agreements with them, because if they did not, their neighbours would. They had to do it for their own protection. With regard to the instructions to protectors to use discretionary power in the engagement of blacks for casual labour, he did not think that what the Home Secretary had said in this connection was generally known. Most of the public thought that if they only employed a blackfellow for half-an-hour, say in chopping wood, they would be liable.

The HOME SECRETARY: We set our faces very strongly against the employment of aboriginals by publicans.

Mr. W. HAMILTON: That was a very good thing. He had heard of one very hard case at Winton. The inspector of police there, who was the protector also, was brought down to Brisbane for the Commonwealth celebrations, and then there was no protector there. A young gentleman there, who was a cripple, wished to employ a blackfellow to assist him in taking some horses down the river, and he found that he could not do this without the sanction of the protector. However, the sergeant of police who was left in charge, used common sense and allowed the blackfellow to travel with this young man down the river. But he had to send word to the protector and get his permission after he came home. In many cases like that the Act operated harshly. If a blackfellow under no engagement to anyone went to a place where he wished to work for two or three weeks, he could not do so without a permit having been first obtained by his intended employer, and it might take two or three weeks to get that permit. The provision was too drastic, and should only apply to aboriginals employed on boats. Personally, he would not allow a blackfellow to go on board a pearlshelling boat, because at sea aboriginals were often treated with all sorts of brutality, and when they came in they had not the sense to make a complaint to a protector.

Mr. JACKSON (*Kennedy*): There certainly appeared to be a feeling among some members that the provisions of the principal Act and of this Bill were too drastic, so far as requiring every individual who employed an aboriginal to take out a permit was concerned. It might be possible to compromise the matter. His experience was that the average aboriginal employed on stations was quite able to look after himself, and he knew of no cases where a squatter kept an aboriginal who was working for him if he wanted to go anywhere else; and as a rule blacks were well treated on stations. They had had examples during the debate showing that the administration of the Act was not satisfactory. He did not mean the administration of the Home Secretary, but the subordinate officials, as, for instance, in the case referred to by the hon. member for Rockhampton, where a man who temporarily

employed an aboriginal without a permit was prosecuted. It was not generally known that such a concession was granted as that referred to in the circular mentioned by the Home Secretary; and he thought the difficulty might be obviated if it was provided that squatters and others should have a free hand in the employment of aboriginals, except in cases where the protector considered a permit was necessary.

The HOME SECRETARY: I am afraid that would not work.

Mr. JACKSON: It would certainly be better than the present arrangement, under which it was impossible to employ an aboriginal without getting a permit, and entering into an agreement. With regard to the suggestion of the hon. member for Normanby, that aboriginals entering into an agreement should get a certain amount of time off, some holidays, during the term of their engagements, he did not think it would be going too far to consider the aboriginal's interests in that respect. The leader of the Labour party had suggested that this matter might be provided for in the regulations, but he did not think it was possible to deal with it under the existing regulations.

The HOME SECRETARY: It can be dealt with in the agreement.

Mr. JACKSON: What authority would there be to provide for it in the agreement, if it was not authorised in the Bill?

The HOME SECRETARY: There is nothing said about the agreement, except that it shall not be for more than twelve months.

Mr. JACKSON: If the hon. gentleman thought it could be dealt with in the agreement, and was in favour of the principle, he was quite satisfied. But he was of opinion that it would be as well to insert in subsection 2 a provision to this effect:—"And every agreement for any period over three months shall provide for any aboriginal or half-caste getting such holidays as the protector may fix." The Aborigines Protection Act provided that aboriginals should not get married without the consent of the protector, that a certain rate of wages should be paid, and so on, and he did not see why they should not provide for holidays. If they provided for white people getting holidays, why should they not make a similar provision for aboriginals? He should like to hear from the Home Secretary whether he was in favour of inserting some provision on the subject in the agreements.

The HOME SECRETARY was afraid the suggestion of the hon. member would not work. He understood the hon. member to suggest that, instead of it being made prohibitory for anybody to employ an aboriginal without a permit, everybody should be at liberty to employ what aboriginals they liked, unless the protector stepped in and said "No." That would be a very invidious position in which to place the protector.

Mr. JACKSON: I mean except as regards those aboriginals employed on boats.

The HOME SECRETARY: Then the distinction could be very easily drawn by saying that the provision should only apply to boats, but that would not meet many of the evils which existed on the mainland. The hon. member for Gregory, the hon. member for Carpentaria, and the hon. member for Normanby had all spoken of blacks on stations where, he supposed, in the majority of cases, they were excellently treated. In some cases, however, they were badly treated, though at the same time the females might be too well treated. He could point to stations where they were uncommonly well treated—in some
[5·30 p.m.] cases too well treated. They wanted to have as few half-castes in the colony as possible. The hon. member for Gregory had given one or two instances in which hardships occurred through men being unable to employ aboriginals simply because they were too far from a protector to get a permit. If he (the Home Secretary) had been situated in that way, and were well known to the police, he would have risked employing the aboriginals, but at the same time he would have written to the protector stating that he wished for a permit, and asking that it should be dated from the date on which he employed the men.

Mr. W. HAMILTON: That is what he did.

The HOME SECRETARY: He was sure no man would be prosecuted under those circumstances.

Mr. W. HAMILTON: He laid himself open to being prosecuted.

The HOME SECRETARY: Of course, every casual employer laid himself open to being prosecuted, but when they had a measure of this extremely drastic character, it must be administered with moderation and discretion. Under our Customs Act, which was one of the most drastic measures on the statute-book, any Customs officer could go into a home and seize a bottle of whisky which he might find there, and say he would confiscate it if the owner did not prove that duty had been paid on it. But that was never done, unless there was a strong suspicion that the whisky had been smuggled. Hon. members would find it was the same with other repressive statutes, which were frequently very drastic in their provisions but were administered with an amount of discretion which insured that they did not become a menace and a harassment to the people of the country. He thought they must trust those who were charged with the administration of this Act in the same way. The employer who the hon. member for Gregory had mentioned had apparently done as he (the Home Secretary) had suggested. There was not a protector in the colony who would have hesitated to issue a permit under those circumstances, and he was sure that if he had, a letter to the Home Secretary's Office would have cured the matter at once. The Act would have to be administered with a large amount of discretion.

Mr. W. HAMILTON: That is not generally known; I never knew it.

The HOME SECRETARY: The officials all knew it, and the hon. member's friend apparently knew it, because he did exactly as he (the Home Secretary) had suggested.

Mr. W. HAMILTON: No, he did not, because he came to me and asked me about it.

The HOME SECRETARY: At all events, he did the right thing, showing that the administration was of a common-sense character.

Mr. LESINA (*Clermont*): In some cases it was almost impossible to tell whether the aboriginals were in casual employment or not, or under an agreement. In a town in the Central division which he visited recently he noticed two hotels, seven or eight stores, four of which were kept by Chinese, one by a Japanese, and another by an Afghan or of some other alien race. He saw half-a-dozen aboriginals engaged in shifting cases from the local goods shed to the store of one Chinaman, but whether they were employed under an agreement he could not ascertain. In the hotel he stayed at the aboriginals were employed in chopping wood, cleaning windows, doing work in the kitchen, and in various other occupations. In the next hotel the same thing seemed to be carried on. This was in the town of Aramac, and there they were employed at work which was generally done by white men. He attempted to find out through the local police magistrate and other persons whether these aboriginals were casually employed, or whether they were under agreement; but no one seemed to know anything

about it. From the inquiries he made he ascertained that aboriginals were employed in various ways, and sometimes in employments of a very demoralising character. With regard to their health, the medical reports showed that in a great majority of cases the aboriginals suffered from venereal disease.

The CHAIRMAN: Order! The hon. member is now digressing. He is going into a second reading speech on the treatment of aboriginals, and he cannot do that upon this clause.

Mr. LESINA: He was dealing with the clause relating to permits. He objected to permits being granted to any Asiatic aliens to employ aboriginals. He did not know whether the hon. gentleman in charge of the Bill was in sympathy with that kind of legislation, but, as he announced last year that he was, probably the proposal would meet with his support; and as soon as he intimated that it would, such a clause would be proposed.

Mr. HARDACRE (*Leichhardt*) pointed out that the conditions described prevailed in almost every town of the colony. He did not know that there was any reason why an aboriginal black should not earn his living under fair conditions. He had a strong right to be in the country and to earn honest employment in a fair way. He thought there ought to be some better method of providing for the employment of aboriginals without compelling anyone who wanted to employ them casually to have a legal document drawn up.

The HOME SECRETARY: What do you call "casual"?

Mr. HARDACRE: Temporary employment for a day or week. He believed the Home Secretary had said it was a very proper thing that something of that kind should be allowed, and that he had given instructions that the Act should not be administered stringently—that employment would be allowed to be given without a permit, although the Act said there should be a permit. If casual employment was to be allowed, why not provide for it in the Act? Some two years ago, he knew of a number of aboriginals who were actually starving on the banks of a creek, because they were not allowed to earn 6d. or 1s. to buy food with. There were a large number of people who did not know that casual employment was not permitted, and it should be provided for in the Act.

The HOME SECRETARY: Will you draft a clause to cover it?

Mr. HARDACRE: It could easily be provided that it should not be necessary to take out a permit for the employment of aboriginal blacks casually, provided such employment did not extend over two or three weeks. He knew the Home Secretary thought that could be evaded.

The HOME SECRETARY: Even you could evade that.

Mr. HARDACRE: That could be provided for by saying that it should be a punishable offence to employ an aboriginal at casual labour for a longer period than two or three weeks. There should be no difficulty in so expressing the clause that it could not be evaded.

The HOME SECRETARY: No one would ever trouble to obtain a permit under any possible circumstances if the hon. member's suggestion were adopted, because no one would employ a blackfellow for more than three weeks at a time. Then the hiring would be terminated for one day, and a second term of three weeks would commence. He would undertake to drive a coach and four through any such provision as the hon. member suggested. The hon. member must surely see that what he suggested was really impossible. Moreover he had no desire to advertise more largely than was necessary the fact that the Act could really be evaded. It was not to the advantage of the aboriginal that people should take advantage of what he might call, for the want of a better term, the discreet administration of the law. It was not desirable that any rule should be laid down with reference to casual employment, but it was a matter that must be left to the discretion of the local protector. As for the suggestion that casual labour up to three weeks should not require a permit, no one would ever obtain a permit, and the Act would become a dead letter.

Mr. JACKSON: You might as well make it three months.

The HOME SECRETARY: They might as well make it for ever.

Mr. HARDACRE: Why not name a stated period like one week?

The HOME SECRETARY: The aboriginals would remain about the premises unemployed for a week, and then be re-engaged. They could not have a protector to watch each blackfellow. In order to make the Act workable at all it was necessary to provide that it should be an offence, not merely to employ the blackfellow, but to have him on the premises. The hon. member would recollect that it was on that very point the Bill was lost in 1899. The Council introduced an amendment to omit from clause 14 of the principal Act the words "or suffers or permits an aboriginal or a female half-caste to be in or upon any house or premises in his occupation or under his control." Much as he valued the provisions in the Bill of 1899, rather than see the wholesale evasion of the provisions of the original Act authorised, and sanctioned, and made possible, he would withdraw the Bill altogether. If those words were omitted they would never be able to get a conviction, because a defendant would say that the aboriginal was not employed by him, but merely resided with him. As one with some knowledge of evidence and proceedings in courts he felt so strongly on the matter that rather than accept the amendment he would let the Bill go, much as he thought it was necessary for the well-being of the aboriginals, and much as he thought it should be passed. He hoped hon. members would allow the clause to pass as it stood.

Mr. W. HAMILTON contended that blackfellows should be treated just like white men, and allowed to work for anyone they liked without indenting. At the same time, he felt that something of that sort was necessary in connection with those who were employed on boats, and he therefore proposed the addition of the following amendment to subsection 2:—

> Section twelve of the principal Act and the said section thirteen as amended by this Act shall apply only to the employment of aboriginals and half-castes on or in connection with ships, vessels, and boats.

He was quite in sympathy with the desire to alleviate the condition of the aboriginals, seeing they had taken possession of their country. He fancied that it was only a question of a few years at most before, like the moa in New Zealand, they became extinct.

The HOME SECRETARY: The hon. member could scarcely hope to get his amendment passed. It was far more drastic than the one which lost the Bill in 1899, and, rather than see the hold which the protectors had upon the employment of aboriginals absolutely nullified by any such provision, he would withdraw the Bill, and continue to act under the insufficient provisions of the Act as it stood. Apparently the experience of the hon. member was largely limited to cases in which aboriginals were well treated, and where men only were employed. He apparently did not allow himself to consider the cases which were really aimed at—cases of

downright abuse—abuse as abominable as any thing which occurred on the boats or could possibly occur anywhere.

Mr. HARDACRE: Apply it to females only.

The HOME SECRETARY: There were also cases in which the greatest injustice was done to men. Moreover, the hon. member should know that frequently men were employed for the sake of the women. If the amendment were carried, it would permit what was one of the greatest possible evils before the passage of the Act. An hon. member had mentioned the evil that he found through women working about hotels. Before the passing of the Act they knew that women were actually kept for purposes of prostitution. They could do a great deal more under the existing Act to put a stop to that kind of thing than they had been able to do without that Act, and they would be able to do a great deal more with the amendment to the Act which was proposed by the Bill than they could do under the law as it now stood; but if the amendment were carried, they might as well wipe out all existing legislation as far as it referred to the employment of blacks on the mainland. The hon. member for Gregory might find that many of his constituents suffered inconvenience by this; but, if they were to protect the aboriginals, individual employers might have to submit to such inconvenience. He asked the hon. member not to persist with his amendment, because he would see that there were the abuses which led to the passing of the Act in the first instance which required to be dealt with. To a large extent those abuses had been stopped by existing legislation, but if they made the Bill apply only to boats things would be just as bad as ever. He did not know that he could say anything more. It seemed scarcely worth arguing; but if the Committee, unfortunately, saw fit to adopt the amendment, he would very much prefer not to have the Bill at all, but go on as they were, unsatisfactory as the present state of affairs was.

Mr. W. HAMILTON: Seeing that the consensus of opinion on both sides was in favour of what was embodied in his amend-
[7 p.m.] ment, and by men who had some knowledge of the subject, it was hardly fair to threaten to withdraw the Bill if it was carried, and throw the onus of its withdrawal on his shoulders. The permit was the weak point of the clause, and it was no consequence if the Bill was withdrawn, as far as that was concerned. The clause would not prevent whites and blacks from cohabiting with one another. No legislation in the world could stop that. It had been said it might inconvenience some of his electors. He believed it would; they were no better than people in other districts. He was ashamed to hear, when out there, of several station managers who were cohabiting with gins working under the official permit. He was told of one station manager who never went anywhere without taking his gin with him. If he went to a neighbouring place he would have her sitting outside where he could keep his eye on her all the time. One day the gin ran away with another aboriginal or half-caste, and because he had her under an agreement he tried to get the police to bring her back again, although they had gone over the border into South Australia. No legislation would stop that kind of thing. From his experience of blacks, he did not believe they understood the terms of an agreement. They did not know the difference between three months and twelve months, and the provision gave the white man the power to keep them on from year's end to year's end if the protector should be in favour of it. He could not see his way to withdraw the amendment.

Mr. J. HAMILTON (*Cook*) said the protector would be worth very little if he did not make it a point to see that the blacks understood the agreement before they signed it. It was what he was paid for. As to the case of the man carrying about his gin, it showed the desirableness of permits.

Mr. W. HAMILTON: He had the gin under a permit.

Mr. J. HAMILTON: Any person knowing of a case of that sort ought to feel it his duty to report it.

The HOME SECRETARY: Hear, hear! And see how long the permit would be in force.

Mr. J. HAMILTON: The permit would be withdrawn, and the individual would be liable to punishment if he employed those persons without a permit.

The HOME SECRETARY: The hon. member had furnished the strongest possible argument why the clause should be allowed to remain as it stood, and that permits should continue to be the rule on land as well as at sea. The hon. member said that notwithstanding the law of permits those evils still continued. All he could say was that in the case mentioned either the fact was not known to the protector, or if it was he should very much like to know the names of the parties and who the protector was; and he would very soon deal with both of them. He would cancel the permit, and deal very strongly with the protector for winking at it.

Mr. W. HAMILTON: It is not my place to act as an informer.

The HOME SECRETARY: He was not asking the hon. member to do so. He was saying that if the hon. member or anyone else furnished him with the information he should deal with the case very firmly. The fact that one permit was held by some man for an immoral purpose did not indicate that permits were unnecessary in any case. Because the law happened to be evaded in one particular case, that was no reason why it should be repealed altogether.

Mr. HARDACRE: If it is not effective it should be repealed.

The HOME SECRETARY: The hon. member might as well say that because some person successfully committed the crime of embezzlement, therefore the law dealing with embezzlement should be repealed.

Mr. W. HAMILTON: This is not an isolated case. I said there were several.

The HOME SECRETARY: Then the sooner they found some means of dealing with them the better, but the repeal of the provision would not attain that object. So far as agreements were concerned they could be made for any period, but they must not exceed twelve months, and were terminable by either party. That was a matter which was necessarily left to the discretion of the protector. In the case mentioned the protector had either not obtained all the information he might have obtained, or else he had failed in his duty by winking at a state of affairs which certainly ought not to exist, and which he was put there to prevent.

Mr. HARDACRE: As far as his experience went he found that the provision in regard to permits was productive of much irritation and inconvenience to the employers, and was the means of injuring the blacks themselves, because time after time it kept them out of employment by station-owners who would like to employ them. In many cases an employer would be compelled to ride 50 or 100 miles to get a permit, and when it was obtained it did not protect the

aboriginal, who could be obtained for immoral purposes with a permit as well as without, and nobody seemed to take any notice. If the Home Secretary would introduce a clause making it a punishable offence to get aboriginals for immoral purposes, there would be some good in that; but a person merely had to get a permit. And from whom could he get a permit?

The HOME SECRETARY: From the protector.

Mr. HARDACRE: From the police sergeant.

The HOME SECRETARY: Nearly all sergeants of police and sub-inspectors are protectors.

Mr. HARDACRE: In nearly every case it would be a police sergeant.

The SECRETARY FOR RAILWAYS: Some of them are very clever men, too.

The HOME SECRETARY: The ordinary sergeant of police is equal to the ordinary member of Parliament.

Mr. HARDACRE agreed with the hon. gentleman. At the same time, if he had to choose between the Bill as it stood and the abolition of permits, he would vote for the abolition of permits.

Mr. MAXWELL did not see what good the amendment would do. The law was scarcely strict enough. Though he sympathised with people who were not able to get blackboys, while others could get them, he saw no reason why the amendment should wipe out clauses 12 and 13 in connection with the aboriginals in the Western parts of Queensland. If they did that, they were going to throw a lot of the aboriginals into various centres, where probably many a young man would be ruined for life, and the only solution of the difficulty would be to collect the whole of the aboriginals and put them on reserves. If the Committee did not see their way clear to do that, it was their duty to make the Act as strict as possible, and it should also be strictly enforced. There should be a fair amount of discretion allowed to whoever administered the Act to see that no injustice was done, especially in connection with the employment of blacks in the Western parts of the country. He knew there were many cases where persons asked for blackboys and had been refused by the protector, but when a squatter came along and applied for the same boy the application was granted. If a blackboy wanted to stop with a man, and all the evidence pointed to the fact that the boy had been treated well, there was no reason why he should not be allowed to remain. On the other hand, there was the question regarding gins. As had been pointed out, many of them were kept on the stations simply for certain purposes which were well known. He was of opinion that no gin should be allowed on any station, and he would remove them all to some reserve where no other person was allowed to enter.

Mr. BROWNE would like to see some way of getting over the difficulty with respect to renewing permits before their expiration. He did not feel inclined to go as far as the amendment, which appeared to stop the issuing of permits altogether.

Mr. W. HAMILTON: Except when they are engaged on boats.

Mr. BROWNE: The number employed on boats was a very small proportion of the total number employed, and there was no use in having an Aboriginals Protection Act if it only dealt with those employed on boats. There was no doubt that there was some inconvenience in connection with permits, but he had travelled over a large amount of country since the Bill was introduced, and he could say that there was not one out of every two dozen complaints made that he had the slightest sympathy with. He might say that, if he had the administering of the Act, he would not allow an aboriginal to do any work about public-houses in towns at all. It demoralised the blacks, and probably kept white men, such as wood-and-water joeys, out of employment. He thoroughly agreed with the hon. member for Leichhardt, and had always said that the aboriginals of this country had as good if not a better right to work than any white man here; but at the same time that description of work was not suitable for the aboriginals. An aboriginal very often was fit to do a day's work, but he did not want to do it when he was about an hotel, and then the gins and children were made use of.

The HOME SECRETARY: You mean aboriginals employed at public-houses?

Mr. BROWNE: Yes; he knew several hotels where there was a whole crowd of aboriginals in the backyard, and they were a nuisance to everybody, and they were not doing themselves any good by being there. He knew one or two hotels that used to employ these blacks, but since the Act had been passed, the publicans would not allow any blacks about the premises—and now they employed some old men about the place, who could do the work better than the whole lot of these aboriginals. No doubt a great deal depended on the administration; and he quite sympathised with the Home Secretary, considering the department had to administer such a large territory, and they could not go to the great expense of having protectors in every district. That was the difficulty. They must rely to a great extent on the protectors themselves. He could not vote for the amendment, as it went so far.

Mr. REID: There had been a great deal of grumbling by station managers, and he thought that was what influenced the hon. member for Gregory in bringing forward this amendment, that they were compelled to employ aboriginals on permits and pay them wages. He would ask the Home Secretary if he had come across many cases where station-owners objected to keep the remaining part of the tribe who were hanging around—sometimes half-a-dozen gins and a lot of piccaninnies? He had heard that numbers had made the threat that if they had to employ a blackfellow they were not going to feed the rest of the tribe.

The HOME SECRETARY: He understood the hon. member wanted to know whether stations had, as a consequence of having to pay wages to those whom they employed, sent away or refused to feed the whole of the non-workers. He did not know. He had seen one or two statements in the papers where people had stated they would do so, but he only knew of one case, in which it was represented to him that in consequence of drought a large number of old and young non-workers had accumulated at the station, and it had become a serious matter with the people on the station, who were in a bad way themselves. They were no longer able to feed these blacks, and he had given instructions to have them removed to a central depôt where they could be fed. That was the only case he knew of where any change had been made. The hon. member must remember that, if there was an absolute refusal on the part of the management to give any food to these non-workers, and they were compelled to go, the others would probably go, too. It was a question whether it was worth while paying 10s. a month, but he had no doubt the wages paid were gauged very largely upon the number of useless blacks that had to be kept about the place, and the protector would necessarily take that into his consideration.

Question—That the words proposed to be added (*Mr. Hamilton's amendment*) be so added—put; and the Committee divided:—

AYES, 9.

Mr. Bowman	Mr. Hardacre
,, Dunsford	,, Jackson
,, Fitzgerald	,, Kerr
,, Givens	,, Lesina
,, W. Hamilton	

Tellers: Mr. Jackson and Mr. Lesina.

NOES, 41.

Mr. Airey	Mr. Kent
,, Armstrong	,, Leahy
,, Barber	,, Lord
,, Barnes	,, Macartney
,, Bartholomew	,, Maxwell
,, Boles	,, McDonnell
,, Bridges	,, McMaster
,, Browne	,, Mulcahy
,, Burrows	,, Newell
,, Campbell	,, O'Connell
,, Cowley	,, Paget
,, T. B. Cribb	,, Philp
,, Curtis	,, Reid
,, Dalrymple	,, Rutledge
,, Dibley	,, Ryland
,, Fogarty	,, Stephens
,, Forrest	,, Tolmie
,, Foxton	,, Tooth
,, J. Hamilton	,, Turley
,, Hamran	,, Turner
,, Jenkinson	

Tellers: Mr. Dibley and Mr. Macartney.

Resolved in the negative.

Mr. GIVENS: Before the clause went through he should like to advert [7·30 p.m.] again to the question of the employment of aboriginals by Chinese and other people of that description. He moved that after the 1st paragraph there be inserted the words—

The following proviso is added to section thirteen of the principal Act:—

Provided always that no permit to employ an aboriginal or half-caste shall be granted to any aboriginal native of Asia.

He had been been looking up the matter since it had been discussed earlier in the evening.

The CHAIRMAN: I would point out to the hon. member that this amendment is not in order. An amendment has been moved at the end of the clause, and we cannot go back to a previous part of the clause.

Mr. GIVENS: Well, he moved that the words be added at the end of the clause. It was a very necessary amendment, because he knew from his own observation—from what others had told him, and from what he saw in the report of the Northern Protector of Aboriginals—that a great many of the evils complained of as affecting the aboriginal population were due to the employment of aboriginals by Chinese agriculturists in the Northern portion of the colony. Earlier in the evening he quoted from the report of Warden Haldane, of Herberton, who was most emphatic in stating that if Chinese were allowed to continue employing aboriginals and supplying them with opium that would practically lead to the destruction of the aboriginal race. The question arose: How were they going to stop that? He contended that Chinamen never gave opium to an aboriginal from mere love of the aboriginal, but that they gave it in return for some service rendered—sometimes for immoral purposes. If, therefore, they prevented Chinese from employing blacks they would remove one of the inducements which they had at present for giving opium to them. As had been pointed out by the Home Secretary earlier in the evening, those employers who gave opium to the aboriginals were able to attract nearly all the aboriginals from the employers who did not give them opium. He considered that the amendment was necessary, and hoped it would be accepted, for it would very much minimise if it did not entirely remove the evil to which he had referred.

The HOME SECRETARY: As a matter of form he did not see anything to complain about in the provision inserted in the Bill of 1899, which simply provided that "no such permit shall be granted to any Asiatic or African alien," without the preliminary words introduced by the hon. member.

Mr. GIVENS: He was willing to move the amendment in the form suggested, and with the permission of the Committee would withdraw the amendment he had proposed, and substitute the words mentioned by the hon. gentleman.

Amendment, by leave, submitted in amended form.

The HOME SECRETARY: He had already given some reasons why this amendment should not be added to the clause.

Mr. GIVENS: You accepted it in 1899.

The HOME SECRETARY: He did. But since then he had received Dr. Roth's report, and, in answer to that portion of the report read by the hon. member with reference to the supplying of opium to aboriginals, he read the part in which Dr. Roth said that some of the best employers of aboriginals were Chinese. As he had pointed out to the Committee already, it was not necessary for a man to be an employee of an aboriginal in order to enable him to supply him with opium. In fact, it was not in the interests of the employer to supply the aboriginal with opium, except for the purpose of keeping him on his premises. If he supplied it for that purpose, it would not be very long before he was found out, and the result would be that the permit would be withdrawn, and the fact of his harbouring aboriginals on his premises would bring him within the clutches of the law. It was not the employer who was to be feared in this connection; it was the man who sold opium for the purpose of profit. Another point was that the proviso as drawn up by the hon. member would, he understood, cause this Bill to be reserved for the Royal assent. We were not now at liberty, he understood, to draw distinctions between aliens who are Asiatic and African and other aliens.

Mr. LESINA: What if we do?

The HOME SECRETARY: Then our legislation became of no effect.

Mr. LESINA: Then we are not a self-governing people.

The HOME SECRETARY: The Royal assent would probably be withheld. We were not at liberty, he understood, having regard to the attitude of Japan, to deal with Asiatic aliens as a whole, which included the Japanese, in any way different from the manner in which we dealt with other aliens. The Japanese claimed to be a civilised power, and demanded the rights and privileges of other civilised powers.

Mr. GIVENS: How was it that we had power to deal with them in the private railway Acts last year?

The HOME SECRETARY: He understood that was where the difficulty would come in.

Mr. J. HAMILTON: It was part of the previous Railway Act fifty years ago, and consequently it is a difficult case.

The HOME SECRETARY: However, quite irrespective of that phase of the case—and he would be sorry to see the Bill held over on that account—he did not think it was desirable, on Dr. Roth's own showing, to deprive the aboriginals of some of their best employers. The protectors were the best judges of who were the best persons to be entrusted with the employment of aboriginals, and he thought the protectors

could be entrusted to prevent the employment of aboriginals among the low whites, who, according to Dr. Roth, were worse than the Chinese in regard to supplying opium. For these reasons he was not inclined to accept the proposal, and he did not believe it would be in the interests of the aboriginals that he should do so, and he took it that they were the only persons they ought to consider at the present time. There were some who, in their fanaticism about the Chinese, were inclined to deal them a blow quite irrespective whether they injured the aborigines or not. He was not one of those. He honestly believed, on the strength of Dr. Roth's own report, and of the other information which had come to his knowledge, that it was not desirable to exclude employment of aboriginals from every man who came within the definition of an Asiatic or African alien.

Mr. GIVENS was sorry that the hon. gentleman could not see his way to accept the proviso, and he intended to divide the Committee upon it. He must say that the evils that had accrued to the aboriginal population by their contact with the whites had been accentuated by their contact with Chinese. One of the hon. gentleman's own protectors, Warden Haldane, had pointed out that their contact with the Chinese and their employment by the Chinese would very soon accomplish the total destruction of the aboriginal tribes in his district. Some of the scenes that were witnessed in the Atherton Scrub at the Chinese camps, where the aboriginals were employed, were appalling. The hon. member seemed to think that they dare not put the provision into the Bill if they desired it to become law. He said it would be reserved for the Royal assent, and probably that would not be given. He (Mr. Givens) could remember a time when a threat of that kind would not have influenced statesmen governing this country one iota. Everyone knew that they had only to stand up for their rights and legislate for themselves and the mother country would not say one single word. It was simply because they had not the grit to stand up for their rights and allowed themselves to be walked upon that an attempt was made to limit their powers of legislating for themselves. Again they found whenever hon. gentlemen on the Treasury benches wanted a proviso of the kind inserted, it was inserted, and no attempt was ever made by the old country to deprive the legislature of the right of legislating on such a subject. Coloured aliens had been deprived by the Pearlshell and Bêche-de-Mer Act of the right of owning boats. Their rights had also been limited by the Mining Act and other Acts, and it was never suggested by the Government that Parliament had anything to fear from the interference of the mother country. The mother country had sense enough to know that Queensland was able to manage its own business, and he was perfectly satisfied that they would be given their rights fully and cheerfully if the strings were not pulled to induce the Home Government to give an adverse decision. He hoped the amendment would be carried, because he was perfectly convinced that no matter what they did to benefit the aboriginals, so long as they were allowed to come into contact with Asiatic aliens, so long would they continue to dwindle away.

The HOME SECRETARY: He had intended to suggest to the hon. member that he should make his amendment apply to all aliens. Why not?

Mr. GIVENS: We have some very desirable aliens amongst us in the shape of Germans. They are aliens until they become naturalised.

The HOME SECRETARY: Why should they, if they would not take upon themselves the responsibility of citizenship, have a permit to employ aboriginals any more than Chinamen who were not naturalised?

Mr. GIVENS: Must they not reside a certain time before becoming naturalised?

The HOME SECRETARY: No, that only applied to Asiatic and African aliens. However, that was a very easy solution of one part of the difficulty, but then it would deprive aboriginals of many very good employers. That was a phase of the subject that he should like to submit to the consideration of hon. members. He still thought that it was very undesirable to deprive the blacks of many very excellent employers.

Mr. REID said he had taken note of one portion of Dr. Roth's report, and he found amongst the convictions against persons for selling opium to blacks there were twenty-nine Chinamen. There was not one conviction against any white person.

The HOME SECRETARY: Read the whole of the report. The hon. member reads only that portion which suits himself.

Mr. REID: He was counting up the number just as the hon. gentleman was finishing his speech, and he noticed twenty-nine convictions against Chinamen. He should like to know if the Home Secretary could tell them how many of the aboriginals of the colony were employed by Chinamen. They all knew what the attractions of opium were to the aboriginals, and as the Chinamen could supply it so much more easily and cheaply than the Europeans, there was, of course, more inducement to the aboriginals to be employed by Chinamen. The Chinaman might be a very good employer on the surface, and as far as appearances went, but if he paid the blacks in opium instead of in money, the rest of the tribe who were not employed had to suffer. Perhaps that was the reason why such scenes as those depicted by the hon. member for Cairns as happening in the Atherton Scrub were to be witnessed. He thought the possibility of the Home Government interfering with the Bill because of the introduction of such an amendment was very remote. That was entirely a domestic question affecting themselves, and surely Parliament had a free hand in dealing with any matter within the borders of the colony? He did not see that in connection with that matter there were any treaty rights or anything which affected the interests of the old country. The aboriginals were inhabitants of the colony, and Parliament as their protectors had the right to legislate as it thought fit. If they could not pass an Act that would benefit the aboriginals without being interfered with by Chamberlain and Company, it was about time Parliament put its foot down. He could understand the old country coming in if Parliament interfered with treaty rights; but he was astonished at the Home Secretary bringing in such an argument in connection with a purely domestic matter. He hoped the hon. gentleman did not bring the matter forward to frighten the Committee or hold it as a threat over their heads. The whole question resolved itself into how many aboriginals were employed by Chinamen, and how many would be affected by the amendment of the hon. member for Cairns.

The HOME SECRETARY: He had no information of any kind on the subject, and as far as he was aware the information did not come from the protectors to the Home Office. The record was kept in the protectors' offices. Having read what Dr. Roth said on the subject he could not see his way to insert such a provision. He said—

> If only to prevent the able-bodied aboriginals from starving—these rich lands being now all of them taken up, and most of them fenced—I cannot instruct the local protector to prevent Chinese employing them.

Mr. REID : That only refers to one particular district.

The HOME SECRETARY : That was so, but it was the only district where they were employed by Chinese to any extent. With regard to the quotation from page 5 of Dr. Roth's report, he had already pointed out twice that what Warden Haldane said was with reference to the supply of opium by Chinese and not with reference to their employment of aboriginals. Dr. Roth clearly recognised the possibility of a Chinese employer supplying an aboriginal with opium, and had therefore issued stringent instructions that no Asiatic, or anyone else who was convicted of supplying an aboriginal with opium, should ever have a permit granted to him. That was a great protection. He hoped the hon. member, in his extreme fanaticism on the subject of the Chinese, would not allow his judgment to be carried away to such an extent as to deprive blacks of what, according to Dr. Roth, were some of their best employers. It would be extremely inadvisable to give every Chinaman a permit, but there were good and bad Chinamen, just as there were good and bad amongst themselves.

[8 p.m.]

Mr. LESINA : The Home Secretary appeared to be very much concerned about the hard fate of the unfortunate celestial if he was not permitted to employ the unfortunate aboriginal.

The HOME SECRETARY : That is not correct. I said nothing of the sort.

Mr. LESINA : The hon. gentleman had deliberately said so during that discussion.

The HOME SECRETARY : No.

Mr. LESINA : The hon. gentleman asked the hon. member for Cairns to adopt some improvement in his amendment so as to include Germans and other aliens. It was paying a very left-handed compliment to their German fellow-citizens to place them on a level with the Chinese ; and it was a fact that was not likely to be forgotten by the Germans resident in Queensland.

The HOME SECRETARY : I did not place them on a level with the Chinese.

Mr. LESINA : The hon. gentleman had placed them on a level with Chinese and other Asiatics.

The HOME SECRETARY : I would not place them on your level, anyhow.

Mr. LESINA : When the leader of the Opposition, the hon. member for Croydon, had proposed a similar amendment prohibiting the issue of permits to Chinese and other Asiatics, the hon. gentleman—after stating that the amendment had his sympathy in some degree—said (his speech would be found on page 165 of vol. lxxxii. of *Hansard*)—

> He admitted that he rather liked the amendment, but he feared that it would not have the effect the hon. gentleman desired to attain, and he was certain that it would deprive many aboriginals of humane and excellent employers. He thought, on the whole, that discretion should be left to the protector to discriminate between those who belonged to the class of Asiatic aliens, who were in every way estimable citizens, and that other class about whom there was no absolute certainty of treating the binghi with humanity and consideration. It was chiefly in deference to the experience and opinion of the Hon. John Douglas that he had refrained from inserting in the Bill the amendment proposed by the hon. member, and he still had his doubts whether it would be entirely for the benefit of the aboriginal if the amendment were carried; however, if it was the desire of the Committee generally that it should be accepted, he had no serious objection.

The hon. gentleman had no serious objection to the principle two years ago, and whether he had any reason for his objection to it now he had been unable to discover from the hon. gentleman's speech. He appeared only to be desirous of frightening them by saying that if they inserted such a provision in the Bill the Royal assent would be withheld. It appeared to him that this cry of "Veto, veto," was becoming very popular in the colonies when it was proposed to introduce legislation that might not be liked on the other side of the world. Why should they be frightened with the cry of "Veto" in regard to what was purely a matter of domestic legislation, and why should they not prevent degraded Chinese in their midst from employing even more degraded aboriginals? Why should not that legislation receive the Royal assent? The hon. gentleman asked why they should not include other aliens, like Germans, Frenchmen, Russians, and Italians, who did not take advantage of their naturalisation laws and become citizens of the Empire ; but that was no argument against the amendment. It was evident from the report of Dr. Roth that the Chinese were in the habit of employing aboriginals, and of paying them with a particularly vile kind of opium—namely, charcoal opium.

The HOME SECRETARY : That is not correct ; that is not in Dr. Roth's report.

Mr. LESINA : The hon. member for Kennedy mentioned last year that he had seen it in the Atherton Scrub. Dr. Roth made that statement on page 5 of his report—

> These Asiatics are located on the rich scrub land around Atherton——

The HOME SECRETARY : That is Warden Haldane.

Mr. LESINA : Yes—in Dr. Roth's report—

> The result is the formation, on these selections, of Chinese camps, which are anything but conducive to the health and morals of the European residents, and certain destruction, in the near future, of the once robust native population, by their supplying opium and other abominations among them.

There was no doubt that they paid the aboriginals in opium, and the list of convictions in the same report showed that the statement was true. If Chinamen were to be allowed to employ aboriginals, and to supply them with a vile kind of opium, in course of time the health and morals of the aboriginals became shattered to such an extent that they became practically the slaves of the Chinese. They did not want money, and never dreamt of taking money for wages, but were quite content to be paid in opium, so that, by adopting the amendment, they would be doing the aboriginals a very good turn. He did not say the granting of permits would not prevent the aboriginals being supplied with opium, because apparently many unscrupulous Europeans were engaged in the supplying of opium to them ; and although they had legislation against the practice it was apparently inoperative. Whether that was the case or not, the adoption of the amendment would tend to minimise the evil, and it would at the same time prevent the degraded Chinaman from having a cheap supply of black labour at hand to assist him in competing with the white man who was working with white labour.

The HOME SECRETARY : Stress had been laid on the fact that there were twenty-nine convictions recorded against Chinese for supplying blacks with opium, but no attempt had been made to show that one of them was an employer of aboriginals. The probability was that they were storekeepers. The fact that there were twenty-nine convictions against Chinese did not affect the question one bit, unless it could be shown that they were all employers of aboriginals ; and he was perfectly certain they were not. He believed he should be well within the mark in saying that nine out of every ten of those did not employ aboriginals at all. The hon. member for Clermont misquoted Dr. Roth's report, but withdrew the statement when he questioned it, and it appeared to be

only by inference from something Mr. Haldane had said that the hon. member made out that Chinese paid aboriginals in opium. Dr. Roth pointed out, in dealing with the question whether publicans should have permits or not, that the facilities which aboriginals had for obtaining opium were greater when they were employed by publicans than elsewhere. For that reason he did not think it desirable they should be employed by publicans. But it did not follow that because a man happened to be employed by a Chinese he was likely to have opium given to him by that Chinese employer.

Mr. REID: He is more likely to get it from him than from anyone else.

The HOME SECRETARY did not think so, and unless it could be shown that those Chinese who were convicted of supplying opium were employers of aboriginals, there was nothing whatever in the argument. The hon. member for Clermont also said that he (Mr. Foxton) had placed Germans on the same footing as Chinese. Nothing was further from his thoughts, and nothing was further from the fact. He had an extremely high opinion of the Germans as colonists, and notwithstanding that, he should be still disinclined to place them on the same level as that of some members of Parliament.

Mr. LESINA: Speak for yourself. You know your own limitations best.

The HOME SECRETARY: He would leave hon. members to decide that for themselves. The hon. member for Clermont talked about the blacks as if they had no right to be here whatever. His own leader had stated that they had an equal, if not a better, right to be here than they themselves had; yet the hon. member spoke of them as if they were mere dirt beneath his feet. He said they had a very high obligation to perform with regard to the aboriginals, and he appealed to the Committee to withhold its sympathy from any such sentiment as that constantly uttered by the hon. member for Clermont. He could quite understand that nothing would suit that hon. member better than to see a provision introduced into the Bill which would cause the withholding of the Royal assent. It should be borne in mind that when that proviso was inserted in the Bill of 1899 a protest against it came from the Japanese Government.

Mr. LESINA: Ah! That scared you.

The HOME SECRETARY: It did not scare him, except in so far as it meant further delay. It was all very well for hon. members to say it was domestic legislation, and that they had a right to deal with the question as they chose. There were three parties to every act of legislation—that Chamber, the Legislative Council, and the Crown or its representative; and if any of those three estates refused its assent, the legislation was lost. In the event of a similar protest, as it undoubtedly would, coming again from the Japanese it was not at all improbable that the Bill would be reserved by the Government for the Royal assent—an event which he should deeply deplore. Before, they were not aware that the matter would be so seriously regarded by the Japanese Government, but there was this modicum of reason on their part for objecting, that a large number of Japanese were employed in the pearling industry, and were in the habit of employing aboriginals as swimming divers, and, according to Mr. Bennett, Dr. Roth, and Mr. Douglas, were among the best employers of those aboriginals.

Mr. BOWMAN: They almost monopolise all the industries on Thursday Island.

The HOME SECRETARY: There were not as many there now as there used to be. The fact that some of their subjects were living in our midst was a reason why the Japanese Government was sufficiently interested in the matter to make a protest. He believed it would not be to the interests of the aboriginals to pass the proviso, because the protectors, who had the interests of the aboriginals at heart, could be entrusted, without putting this into the statute at all, with the responsibility of seeing that only those Asiatics and African aliens who would really treat the aboriginals well were allowed to have permits. For the reasons he had given he thought the Committee would scarcely agree with the hon. member for Clermont—that he advocated the rejection of the proviso from any love for the Chinaman. And the only reason why he had suggested that all aliens should be included was to secure the passage of the Bill; because, if all aliens were included, they would be treating all alike—which they were at perfect liberty to do—and there would no be protest from the Japanese Government.

Mr. GIVENS: The hon. gentleman had shifted the ground of his objection to the amendment. At first he said he was chiefly opposed to it because it would tend to deprive the aboriginals of some very good employers amongst the Chinese.

The HOME SECRETARY: I gave the two reasons at the same time.

Mr. GIVENS: Now the hon. gentleman said the principal reason was that the Bill would run a chance of rejection.

The HOME SECRETARY: Don't twist what I said.

Mr. GIVENS: The hon. gentleman just said that the only ground of objection he had was the chance of losing the Bill owing to the fact that the Royal assent might be withheld. He was not inclined to attach any weight to that reason, seeing that other Bills containing the same provision had been passed. The same provision was inserted in four Acts last year, and they were not even reserved for the Royal assent. Could the hon. gentleman explain that?

MEMBERS on the Government side: It has been explained.

The HOME SECRETARY: I can explain it in two minutes.

Mr. GIVENS: It was not capable of explanation. If the legislature of this colony was to be shorn of its right to pass domestic legislation of this character without the interference of the mother country, which did not pretend to understand local conditions, then our self-government was a myth. They had been told that the fact that there were about twenty-nine convictions of Chinese last year for selling opium to aboriginals, while at the same time there was only one conviction of a white man for a similar offence—that that was not a good reason why they should deprive aliens of the right to employ aboriginals. Did not the fact that they were the only people, with one exception, who had been convicted of the offence, show they were the least desirable to have as employers of aboriginals? Although the Home Secretary stated that perhaps not one in ten of those Asiatics who were convicted were employers of aborignals, still he had given no proof of that. He thought it could be proved that much more than one in every ten were actual employers. He quite agreed with the Home Secretary that even by absolutely prohibiting the employment of aboriginals by aliens, it would not entirely prevent the supply of opium to aboriginals. While they did not hope to absolutely prevent crime by passing laws against crime, they prevented the country being overrun with criminals, and in the same way by passing this amendment, although they could not hope to absolutely stop the supply of opium to aboriginals, yet they could have the assurance that they would considerably minimise the evil. He had already quoted from Dr. Roth's

report; and he would like to quote one other paragraph as collateral evidence that the Asiatics were not a desirable people to be allowed to have aboriginals in their employment. On page 8 of the report Dr. Roth said—

> When half-caste (and, for the matter of that, full-blooded) girls of tender years are found with European employers—they are, of course, not allowed with Asiatics—I must be perfectly satisfied that the latter are suited for the care of such children, have them under proper agreement, give them suitable remuneration, and are in a position to prevent loose behaviour on their part.

Dr. Roth interpolated "they are of course not allowed with Asiatics," while at the same time admitting that they were allowed with Europeans, and that for that purpose Europeans were the most desirable as employers. If that was so in one case, was it not reasonable to suppose that it was in another? He did not intend to take up the time of the Committee longer. He was sorry the Home Secretary could not accept the amendment, but he intended to call for a division.

[8·30 p.m.] The HOME SECRETARY said he intended to move an amendment on the amendment of the hon. member for Cairns. He hoped by moving his amendment he would prove to hon. members on the other side that it was purely his desire that this Bill should be passed, and that for that reason he was opposed to the proviso proposed by the hon. member—because it would tend to shelving the Bill. He moved that the words "Asiatic or African alien" be omitted, with a view to inserting the words "alien of the Chinese race." That left the question of the Japanese open.

Mr. REID: The Chinese Empire might object.

The HOME SECRETARY: Did the hon. member represent the Chinese Empire on this occasion? Was he the representative of Chinamen? His amendment would put the hon. member for Cairns to the test as to whether he was genuine or not in this matter. He (Mr. Foxton) wanted to see this Bill passed, and he did not want any obstacle thrown in the way of its passing. He did not suppose that the protest made by Mr. Reid on behalf of the Chinese Empire would be followed up by any diplomatic action on the part of that empire. He did not think they would hear of anything of that sort, but that they would hear about it if they passed legislation in such a way as to place the Japanese Empire under any disability, while they did not place other nations in the same category. That was the point. Let the hon. member choose between them. Let him single out the Chinese, or, on the other hand, exclude all aliens, and he (Mr. Foxton) would vote with him in either case. There was a pressing necessity for this measure becoming law at the earliest possible date, and the administration of the Act would be greatly strengthened if it became law.

Mr. GIVENS said he did not for a moment like caving in because of the fear of any protest from the Japanese nation.

The HOME SECRETARY: It is the loss of the Bill I am thinking about.

Mr. GIVENS: He would explain his position in two minutes. They were really considering two nations, the Chinese and the Japanese. The Chinese nation was really on its knees, but the Japanese nation was very alert, and in some instances cheeky, and to a certain extent while they were keeping the one prostrate they were caving in to the other. As a matter of fact, there were very few Japanese in this colony employing aboriginals, and he would accept the amendment because he was always willing to meet an hon. gentleman half-way, if any good could be accomplished by so doing. He knew from his own experience that the employment of aboriginals by Chinese was one of the greatest evils in the country; so he would accept the amendment of the Home Secretary.

Mr. LESINA objected to the amendment proposed by the hon. gentleman. Evidently the Home Secretary was inspired to move his amendment because of the condition of affairs in the East, which had really placed the Chinese nation beneath the feet of the allied powers of Europe, and, because they were not strong enough to protest against this, the Home Secretary wished to exclude the Chinese, who were regarded as a powerful nation, from any benefits that might arise from the employment of aboriginals by them. But the hon. gentleman was not game enough to attack the Japanese.

The HOME SECRETARY: Vote against the amendment.

Mr. LESINA: There was a moral sticking out a foot——

The HOME SECRETARY: Where?

Mr. LESINA: One very good thing which had resulted from this discussion was that they had discovered that a protest had been received from the Japanese Government by the Queensland Government. In 1899 this Government included the Japanese in the measure which was then before the House. The Japanese Government objected to this legislation, and the Queensland Government backed down.

The HOME SECRETARY: It was not passed.

Mr. LESINA: But the amendment was adopted by this Chamber. The Japanese had taken alarm. For a number of years a great many of the Japanese pearl-shellers at Thursday Island had been able to take on cheap aboriginal labour, and the Queensland Government, who were so anxious to preserve the aboriginal race, were quite willing that the Japanese should employ aboriginals and make a profit out of their cheap labour. The Government was quite willing to put restrictions on the Chinese and other aliens in this way, but they could not afford to quarrel with the Japanese nation, or the Imperial Parliament would not allow them to do so, and so the Government here had backed down. It seemed that they could pass no legislation which would curtail the privileges of the Japanese who resided here without the Imperial authorities interfering. That was a fact that should be made known and bruited about. He certainly thought that, as a self-governing people, they should prohibit Chinese, Japanese, and African aliens from employing aboriginals, especially as the Minister had manifested such a paternal interest in them. If he was so anxious for their preservation, why should he allow them to be exploited by Japanese—why permit them to be done to death by Japanese capitalists? The Home Secretary's pretension to have such paternal interest in the aboriginals was hypocritical, and did not pan out as he wished it to do. It was well known that paralysis in pearl-diving was the cause of most of the deaths amongst the divers, although sometimes deaths were caused through fouling the pipe, or by diseases. If the aboriginal was worth preserving, and if it was worth while establishing reserves for them to protect them and to Christianise them—why did they not protect them against Japanese capitalists? The hon. gentleman did not care what became of the aboriginals so long as they were employed by some benevolent Japanese capitalists. The hon. gentleman and his Government had backed down, and probably later on they would allow the aboriginals to be exploited by the "chow." When they were brought face to face with facts like these it made them think of the pious, hypocritical attitude the Government exhibited towards a race which was fast disappearing from

this continent. The hon. gentleman had taken him to task the other evening when he (Mr. Lesina) talked about the law of evolution, but the fiat had gone forth, and it was a fact that the dark natives of Australia, America, the Sandwich Islands, and most of the islands in the Pacific were disappearing items. They had to go. When he made that statement it did not necessarily follow that he was out of sympathy with all legislation for their protection. The amendment of the hon. member for Cairns was intended to protect them generally by preventing Chinese from obtaining permits and then exploiting their labour and paying for it with what was known as charcoal opium. The Home Secretary must be credited with an entirely original view with respect to the preservation of the natives, for no other race had ever passed legislation which allowed the natives of their territory to be exploited by foreigners, particularly by low foreigners like the Chinese and Japanese. He was opposed to the amendment in its present form, and should vote against it.

Question—That the words "any Asiatic or African alien," proposed to be omitted, stand part of the amendment—put and negatived.

Question—That the words "any alien of the Chinese race," proposed to be inserted, be so inserted—put and passed.

Amendment (*Mr. Givens*), as amended (*on motion of the Home Secretary*), put and passed.

Mr. LESINA wished to know whether the phrase "any alien of the Chinese race" would include naturalised Chinese who were born in China or only Chinese who were not naturalised? What about a Chinaman who was born in Hongkong and who was a British subject? Would he be excluded from exercising the capitalist's privilege of hiring aboriginals under the Act? He should like to see that matter clearly defined, so that no mistake should be made.

Clause 5, as amended, put and passed.

The HOME SECRETARY: On going through Dr. Roth's report the other evening he noticed something which had previously escaped his observation. It was a paragraph on the first page under the heading of "Certificates of Exemption," and it called attention to the fact that there was no power to revoke certificates of exemption. These certificates were issued under section 33 of the principal Act, which was as follows:—

It shall be lawful for the Minister to issue to any half-caste, who, in his opinion, ought not to be subject to the provisions of this Act, a certificate, in writing, under his hand, that such half-caste is exempt from the provisions of this Act and the regulations, and from and after the issue of such certificate such half-caste shall be so exempt accordingly.

Dr. Roth in his report said—

Several applications have been received from employers for the grant of certificates of exemption from the provisions of the Act (under section 33) to certain half-castes. It is noteworthy that these have invariably been made on behalf of little girls. My own interpretation of such certificates is that they should be issued only to those half-castes old enough mentally able to appreciate them. Furthermore, it must be remembered that, when once granted, there is no power given to revoke such documents. Supposing for one moment that a certificate were given to such a child, she would really be worse off than before; she would be denied the protection which the Act affords, and, not being able to look after her own interests, her condition would be nothing else than one of slavery.

It seemed to him desirable that the Minister should have power to revoke these certificates of exemption if necessary, but he did not suppose the power would very often be exercised. He therefore moved that the following new clause be inserted after clause 5:—

The following proviso is added to section thirty-three of the principal Act:—

Provided that at any time he thinks it necessary so o do, the Minister may revoke any certificate issued by him to any half-caste under the provisions of thi section, and thereupon the provisions of this Act and the regulations shall apply to such half-caste as if no such certificate had ever been issued.

He thought the new clause would come in appropriately at that place for, as hon. members would observe, the clauses with which they had been dealing either repealed or altered certain sections of the existing Act, and that the clauses to which they were now coming were new provisions.

New clause put and passed.

Clause 6—"Recognisance on removal of aboriginal"—put and passed.

On clause 7—"Penalty under 61 Vic. No. 17, s. 20, not to be mitigated"—

Mr. MAXWELL pointed out that the minimum penalty in the clause was a fine of £20, or one month's imprisonment. He would like to know in how many cases Chinamen who had been fined £20 during the last twelve months had taken it out in prison? He thought the term of imprisonment was scarcely equal to the fine, and if the hon. gentleman had no objection he would move an amendment making it two months.

The HOME SECRETARY: He was rather inclined to agree with the hon. member, though he understood that the usual equivalent of a £20 fine was one month's imprisonment.

Mr. MAXWELL: Scarcely enough, you know.

The HOME SECRETARY: He did not think it was. If the hon. member would move an amendment making it two months he would support it.

Mr. MAXWELL: Could you not make it three?

The HOME SECRETARY: He thought two enough.

Mr. MAXWELL moved that the word "one" be omitted with a view to inserting the word "two."

Mr. BOWMAN (*Warrego*): He would like to see three months substituted for two.

Question—That the word "one" proposed to be omitted stand part of the clause—put and negatived.

Mr. BOWMAN moved that the word "three" be inserted in place of the word "two." He thought from what had been said by hon. members in connection with the sale of opium, that they could not be too drastic in the punishment of the men who sold it. The first case he had ever sat upon in his life was at Adavale, about two months ago, when a Chinaman who had been charged with selling opium to the blacks was fined £20 or three months. That Chinaman took out the three months very willingly. The two local justices, Mr. McNeil and Mr. McIvor, who had had considerable experience on the bench, felt some difficulty about dealing with this case, and asked him (Mr. Bowman), in the event of the Aborigines Protection Act being brought under the notice of the House, to suggest that it should be specified that £20 should be the minimum fine, with the alternative of three months' imprisonment. This particular Chinaman was tried under section 22 with having opium in his possession, or selling it.

The HOME SECRETARY: That is all right; you were quite right.

Mr. BOWMAN: Dr. Roth, in his report, had made it imperative on the part of the Committee to deal with the question of opium-selling in a very stringent manner. He stated—

In one particular district, where the local constable found it practically impossible to circumvent the celestials by means of aboriginal boys with money, he employed a gin, without the usual shilling, and she has proved eminently successful in securing a conviction. So long as the evil exists, such and similar procedures must be resorted to. I look upon the opium-habit as a cancerous sore slowly but surely eating its way into the bosom of the community—a danger fatal alike to

the black and to the white. I cannot close my thought to the belief that many Europeans will soon be succumbing to its influence.

When the second reading of this Bill was before the House, he (Mr. Bowman) mentioned that the experience of employers in the Western parts of Queensland was that a number of whites were addicted to the smoking of opium, and, while there were some station-owners whose managers gave the aboriginals opium as a means of encouragement for them to do their work, the chief complaint was that the Chinese who had the gardens, or the cooks who were usually employed on most stations, were in the habit of supplying opium. At the present time he had been informed—he did not know whether it was true—that the Chinese obtained their opium concealed in clothing ordered from Brisbane. One police officer out at South Comongin suspected one of the Chinese of getting opium in this way, but the Chinaman succeeded in getting his parcel away before the policeman could obtain it. On every station that he visited out West he had been asked by the owners to use his influence to try and get the opium traffic put [9 p.m.] down, because it was a very great detriment to the blacks. They got out to the Chinese gardens, and no good could be got out of them. It was a well-known fact that they did not get the pure opium. It was chiefly the charcoal opium that was supplied to the aboriginals, and he was quite sure that if a £20 fine or three months' imprisonment was imposed it would act as a considerable check on the sale of such a deleterious substance.

The HOME SECRETARY: It was impossible to accept the amendment. The hon. member would know that at present the maximum penalty was £50 or three months, and there was no minimum. If they made the minimum three and the maximum three, it would be absurd. There were degrees of wrong-doing and criminality in matters of that sort, and although the hon. member had fined a Chinaman £20 or three months' imprisonment, he could not have given him more than three months if the fine had been £50.

Mr. BOWMAN: Was it not possible to amend the principal Act so as to make the maximum six months?

The HOME SECRETARY: That is going too far. Can you give an instance where six months is given in lieu of a fine of £50?

Mr. BOWMAN: He could not give an instance, but he was anxious to put down the system of opium smoking, which was so disastrous in the back country, and the only way to do that was by making the Act stringent and drastic. Personally, he would like to see clause 19 of the principal Act amended so as to make the penalty six months.

The CHAIRMAN: If the hon. member insists upon his amendment, I shall, under Standing Order 163, put it first—that the blank be filled by the insertion of the word "three."

Question—That the word "three" proposed to be inserted be so inserted—put; and the Committee divided:—

AYES, 22.

Mr. Airey	Mr. Jackson
,, Barber	,, Jenkinson
,, Bowman	,, Kerr
,, Browne	,, Lesina
,, Dibley	,, Maxwell
,, Dunsford	,, Mulcahy
,, Fitzgerald	,, Paget
,, Fox	,, Reid
,, Givens	,, Ryland
,, W. Hamilton	,, Turley
,, Hardacre	,, Turner

Tellers: Mr. Airey and Mr. Bowman.

NOES, 29

Mr. Armstrong	Mr. Kates
,, Barnes	,, Leahy
,, Bartholomew	,, Lord
,, Boles	,, McMaster
,, Bridges	,, Newell
,, Cameron	,, O'Connell
,, Cowley	,, Philp
,, T. B. Cribb	,, Rutledge
,, Curtis	,, Stephens
,, Dalrymple	,, Stephenson
,, Fogarty	,, Stodart
,, Forrest	,, W. Thorn
,, Foxton	,, Tolmie
,, J. Hamilton	,, Tooth
,, Hanran	

Tellers: Mr. Cameron and Mr. Barnes.

Resolved in the negative.

Question—That the word "two" be inserted—put and passed.

Clause 7, as amended, put and passed.

On clause 8, as follows:—

No marriage of a female aboriginal with any person other than an aboriginal shall be celebrated without the permission, in writing, of a protector authorised by the Minister to give such permission.

And the protector who grants such permission shall forthwith transmit a copy of the same to the Minister.

Mr. FITZGERALD (*Mitchell*) said that he was rather puzzled over the definitions of "aboriginal" and "half-caste." He noticed that the clause proposed to give the protector power to refuse permission to the marriage of a female aboriginal with "any person other than an aboriginal." There was a case not long ago in Barcaldine—he did not know whether the girl would come under the definition of "half-caste." Her father was a Chinaman and her mother was an aboriginal, and she was living with a Chinese gardener as his wife, and, as a matter of fact, a child was born. He supposed there was some kind of marriage ceremony gone through. Some time ago the police summoned the Chinaman for harbouring a half-caste. The minimum fine under the Act was £10, but Mr. Vaughan, the police magistrate, who was a very old and respected magistrate, reduced it to 1s., which showed that he considered that there was really no offence. Both parties came into court and expressed their willingness to go through the ceremony of getting married legally, but the senior officer of police—who he believed was the protector, and who was a very respectable officer—refused his consent to the marriage. He would like to know what right the protector had to refuse permission in a case like that. It seemed rather harsh, as the girl was very well cared for and really wanted to marry the Chinaman, but she was taken away from the district. She could hardly come under the definition of an aboriginal as her father was a Chinaman and she was not living with the blacks. He mentioned the case now to ascertain whether the hon. gentleman could give any information on the matter.

The HOME SECRETARY: Under what authority was permission asked for, and under what authority was it refused?

Mr. FITZGERALD understood that the Chinese gardener was brought before the court and charged with harbouring a half-caste aboriginal. Of course he pleaded guilty. He did not suppose he understood the charge. He supposed the girl would come under the definition of a half-caste. He understood there was an application made to the Home Secretary's Department over the matter, but permission to marry was refused, and the girl was taken away.

The HOME SECRETARY knew nothing of the particular case that the hon. member mentioned, although he would not say that it had not been before him. He did not quite see where the protector came in, in that case, except

in regard to the prosecution for harbouring an half-caste. It was in order to secure the previous permission of a protector in the case of the proposed marriage to an aboriginal that the clause was now introduced. As he explained on the second reading of the Bill, the Act in such cases as that—and in very much more glaring instances, judging by the facts related by the hon. member—the Act was set at naught. When a prosecution was about to be instituted for harbouring, there was nothing to prevent the person against whom the charge was being made going to the nearest registrar and getting legally married to the aboriginal woman or half-caste, as the case might be. Very often, as in that particular instance, the ceremony of going through a form of marriage was neither here nor there. He did not quite see where the permission was asked from the protector, who had no authority under the law to give his consent to a marriage. Then they came to another question—Would it be desirable that a female half-caste, as defined by the Act, should not be permitted to marry without the consent of the protector? He had his doubts about that.

Mr. DUNSFORD: The definition of aboriginals includes half-castes.

The HOME SECRETARY: It would not include that one, because, at the time of the passing of the Act, she was not resident with the blacks. She was not an aboriginal, though she was a half-caste. Practically, the definition in section 4 meant that a half-caste was a half-caste only, and not an aboriginal, if he or she associated with white people, and that a half-caste was deemed to be an aboriginal if he or she habitually associated with blacks. If the female half-caste in question had habitually associated with white people, there was no need to bring her under the protector.

Mr. JENKINSON: If a half-caste associates with a Chinaman you would say he was a white man; is that what you mean?

The HOME SECRETARY: That was the case there, and if the girl was twenty-one years of age she was her own mistress.

Mr. KERR: She was not twenty-one.

The HOME SECRETARY: Then possibly it was the police magistrate, who would be the magistrate for consenting to the marriage of minors, and not the protector, who refused his consent for some reason or other.

Mr. FITZGERALD: He had just discovered that the girl was not of age, and of course she could not be married without the consent of the police magistrate. But was there no possibility of the marriage coming off now? Who was going to give the consent? Could the protector give his consent to the marriage of a minor? The girl was in an awkward position. A white man could not be expected to marry her, nor could it be expected that she would go back again among the aboriginals. Her only chance in life was to marry a Chinaman, who, they often heard, made the best of husbands.

The HOME SECRETARY: Would the hon. member have said that if the hon. member for Clermont had been present? If the hon. member would send him in a memo. to-morrow, giving the names of the parties, he would be very glad to inquire into the case and see what could be done for the happiness in life of that particular girl.

Mr. AIREY (*Flinders*) said he understood the Home Secretary to say that a half-caste girl, twenty-one years of age, was supposed to be able to take care of herself.

The HOME SECRETARY: If she habitually lives with white people.

Mr. AIREY: It might be fairly presumed that an aboriginal woman who lived with her own people might also manage to a certain extent to look after herself. He recognised, of course, that the intention underlying the clause was a very admirable one. It was necessary to extend some protection to the blacks, and more particularly to the womenfolk among them. But he submitted that that protection might possibly go too far, and in the effort to do good might over-reach itself. In Dr. Roth's report was a passage which he supposed had been the cause of the introduction of that clause. Dr. Roth said—

> It is to be regretted that the parents of these half-castes cannot be traced and made to support them, instead of their being a charge upon the State. If the fathers of these half-castes knew that they would be called upon to support their progeny there would be much less of this kind of immorality. I cannot conscientiously blame the young aboriginal women allowing themselves to get into trouble. I do not expect that in one, or even in two generations, there can be instilled into them (excepting, of course, those at the various missions) all the moral virtues and mental restraints that it has taken ourselves something like 2,000 years to learn—not necessarily to possess—ever since the Great Teacher spoke to the Magdalen whose coloured sister the general public is so ready to condemn. I have on several occasions had to point out to employers the advisability, when the time comes, of getting these girls properly and suitably married to men of their own race and colour, a condition in which—the lawful exercise of their physiological functions—there is far more chance and hope of their remaining happy and contented. As in the majority of cases this cannot unfortunately be arranged, it is, to my thinking, far more charitable and merciful to send them, while they are as yet young and uncontaminated, to the different missions where, so soon as they arrive at an age suitable, they are married and settled down to lives of happiness to themselves and of usefulness to the State. On the other hand, brought up in a false position as "one of the family," etc., the time arrives sooner or later when the true-blooded or half-caste girl realises that she is a pariah amongst those very people with whom, probably ever since she can remember, she has associated more or less as an equal. Is it matter for wonder that any such should finally end badly?

There was a great deal of sense in those remarks. At the same time he submitted that the method adopted by the Government would not in the long run work out for good. The aboriginals had to be treated to a certain extent as
[9·30 p.m.] children, and the appointment of protectors was very necessary; and he believed that so far they had been good and kind men. At the same time, this paternalism could go a bit too far. They set apart reservations for the aboriginals, arranged for their employment, settled the circumstances under which they might marry; and by and by they would fix how many children they should have, how they should die, and where they should be buried. He did not know where it would end. The party on his side had been accused of trying to make the State too paternal, but they had never attempted to settle how many babies should be born, or whether an aboriginal should marry or not. That sort of legislation had emanated from the other side. He noticed that blacks were to be at liberty to marry those of their own colour. It was an unfortunate fact that many of the male blacks were given to drink, and were rather rude, and sometimes cruel; and the worst cases of ill-treatment of black women he had seen were cases in which the offenders were black-fellows. The kanakas, when they married aboriginal women, treated them much more kindly than aboriginal women were treated by their aboriginal husbands. A white girl was supposed to be protected by guardians until she attained her majority; but a black woman under this Bill was supposed to be guarded all her life. It was a peculiar thing to find a Government protecting people from matrimony. Joking apart, the clause placed too much power in the

hands of the protector, and it would be better to limit the protection to the age of eighteen or twenty-one years. There had been too much laxity in the past in connection with the treatment of the aboriginals. Now there was a tendency for the pendulum to swing too far to the other side—there was a danger of erring by having too much severity. If they wanted to prevent a mixture of the races—which might be injurious—there was only one way—namely, by placing the blacks on reservations and exercising the strictest control over them. As to preventing them from marrying or determining whom they should marry, there was a danger of too much stringency. The protectors were only human, and were liable to make mistakes. And the blacks were only human too; and they ought to have certain rights, of which they should not be deprived.

The HOME SECRETARY: If the hon. member had considered the matter more maturely he would scarcely have spoken as he had done. It was a fact that, up to a certain age, white girls were prevented from marrying without the consent of their natural guardians, or, if they had none, the consent of justices who were authorised to sanction and approve of such marriages. The hon. member suggested that this limitation as to age should apply to aboriginals. Did he know the difficulty there was in proving the age of an aboriginal?

Mr. W. HAMILTON: How are you going to make an accused person do it?

The HOME SECRETARY: The hon. gentleman had not a very logical mind, and perhaps could not see the Committee were dealing with one clause while he was dealing with another. He was now referring to the difficulty of proving age. Suppose an aboriginal girl desired to marry and said she was over or under the age of twenty-one, how was the registrar or justice going to decide? She did not know her own age, whatever she might say, so that distinction would be absolutely useless. The hon. member argued as if the cases were similar, but there was no similarity between the white woman and the aboriginal woman who wished to get married. It could not be said that an aboriginal woman who was desired in marriage by a Chinaman was as well able to look after her interests as would be a woman of the age of twenty-one years, being a European. There would be no need for protection at all if they were as well able to take care of themselves as the whites. The whole scheme of this legislation was an admission that the contention of the hon. gentleman was not sound—that the blacks did want protection. He would certainly stick to the clause; and he saw no reason for altering his opinion. Dr. Roth had pointed out in his report how the law was evaded by men about to be proceeded against for harbouring aboriginals, and who perhaps had families of half-castes—men who actually bound the unfortunate women to life-long servility, and thus escaped the consequences of their breach of the law. It was a provision which must commend itself to everyone who desired to see aboriginal women protected.

Mr. BOWMAN: Did the hon. gentleman think it was advisable that power should be given to the protector to grant permission for a white man to marry an aboriginal woman?

The HOME SECRETARY: He did not quite understand what the hon. member meant, but he thought it would be far better to have the restraint proposed than no restraint at all. It must be remembered that, under existing circumstances, a half-caste who lived with white people was really not an aboriginal. And why should not a half-caste marry an aboriginal woman? If it was said in a measure of this kind that no aboriginal woman could marry anyone but an aboriginal man, that would exclude a half-caste who associated with white people from marrying an aboriginal, because, in the eyes of the law, he was not really an aboriginal.

Mr. AIREY: That is some of the protection that you advocate.

The HOME SECRETARY: What?

Mr. AIREY: That an aboriginal man should only marry an aboriginal woman.

The HOME SECRETARY: No. That provision would not always be desirable. If it was made a hard-and-fast rule that the protector should not give any permits at all—that no aboriginal woman should marry anyone but an aboriginal man—that would exclude a very desirable class of men.

Mr. REID: Do you believe in full-blooded whites marrying aboriginals? That is the question.

The HOME SECRETARY: That was not the question at all.

Mr. BOWMAN: That was the question I asked.

The HOME SECRETARY: No; the hon. member asked whether I considered it desirable that protectors should give any permits at all.

Mr. BOWMAN: To a white man to marry an aboriginal woman.

Mr. REID: What about white men marrying black women?

The HOME SECRETARY: He thought the protector could be trusted in that matter. He did not see why a white man should not be allowed to marry an aboriginal woman if he was willing to maintain her and keep her properly as his wife and look after the children. He did not think the clause should be interfered with. It was far better than the law was at present.

Mr. BOWMAN: Would not that be fostering a piebald race?

The HOME SECRETARY: No; this clause was putting a restraint in that way, because those people could not marry without the permission of the protector. Supposing a man had been living with an aboriginal woman, and she was an educated woman—as many of the young aboriginal women in Queensland were—he had seen letters written which one would have thought had been written by an educated European woman, and which were written by pure-blooded aboriginals—suppose an aboriginal woman lived with a white man, and was about to become a mother as a result of such cohabitation, would it not be desirable that they should be married? Would the hon. member prevent them marrying?

Mr. BOWMAN: I would, because I do not believe in mixing the race at all.

Hon. A. S. COWLEY: It would be mixed already in that case. (Laughter.)

The HOME SECRETARY: But the consummation of the marriage would not prevent the birth.

Mr. REID: It might prevent further additions.

The HOME SECRETARY: It would make one more legitimate child in the colony and one less illegitimate, and the onus of maintaining that child or any other children that might be born to them would rest on the man.

Clause 8 put and passed.

On clause 9—"Permit for employment of aboriginals, etc."—

Mr. MAXWELL said subsection (3) read—

> No person shall employ on board of or in connection with, or suffer or permit to be upon, any ship, vessel, or boat, any male aboriginal who has not arrived at puberty, or any female aboriginal or female half-caste, unless under a written permit given by a protector.

Was it not desirable to prevent any female aboriginal or female half-caste being on board

boats, vessels, or ships? When an aboriginal woman went there they all knew what she went there for.

The HOME SECRETARY: The hon. member had to remember that this clause provided for women who were the wives of the men on the boats. Many a man had his wife with him on board the pearl-shelling boats in Torres Straits. One of these men might have an aboriginal wife, and it would not be fair to exclude her from being with her husband on the boat. He thought it would be better to leave the clause as it was. Moreover, these people, especially on Darnley and Murray Islands, had a high moral sense of the marriage tie. It was very sacred to them, and it would be a great injustice if the wives of these men were not allowed to accompany their husbands. It would mean that these women would have to stay all their lives on the islands, for it was only once in a blue moon that a steamer went there.

Mr. J. HAMILTON: I have known some of these men write marriage proposals and the women answer them in writing.

Mr. MAXWELL said he was not very particular about the matter.

The HOME SECRETARY appreciated the hon. member's motive in suggesting the matter, but there were exceptions.

Mr. JENKINSON (*Wide Bay*) asked if there was any reason for omitting the words "or half-caste," after the words "male aboriginal" on lines 5 and 6? That was provided for in subsequent clauses.

The HOME SECRETARY: Yes, there was a reason for that. The principal Act and the Bill before the Committee were not designed for the special protection of male half-castes. They were pretty well able to look after themselves. If they were half-castes habitually associating with aboriginals, then they were regarded as aboriginals, and were included in that provision.

Mr. J. HAMILTON: It was generally admitted that the Murray Island blacks, and in fact all the island blacks, were people of a far higher class of intelligence than the binghis on the mainland, and it would be a mistake to alter the provision which has been referred to by the hon. member for Burke.

Clause 9 put and passed.

Clause 10—"Death of employed aboriginals"—put and passed.

On clause 11, as follows:—

(1.) The wages of an aboriginal or half-caste employed under a permit, exclusive of food, accommodation, and other necessaries, shall not be less than ten shillings per month, if he is employed on board of, or in connection with a ship, vessel, or boat, or five shillings per month, if he is employed elsewhere.

(2.) A protector may direct employers or any employer to pay the wages of aboriginals or female half-castes to himself or some officer of police named by him, and any employer who fails to observe such direction shall be deemed to have not paid such wages. The protector or officer of police who receives such wages shall expend the same solely on behalf of the person to whom they were due, and shall keep an account of such expenditure.

Mr. BARTHOLOMEW (*Maryborough*) wished to know what was the status of the bodies in charge of aboriginal mission settlements? He thought that the superintendent of a mission station should have a certain amount of power in connection with the employment of aboriginals who were under his control, otherwise men might be taken away whom he could ill spare. He hoped that blacks on the settlement at Fraser Island would be allowed to erect telegraph poles to Sandy Cape, and that they would be employed in looking after the forestry on that island. But in any case he thought the superintendent should have some say as to how many of the boys should be hired out under the Bill.

The HOME SECRETARY: A superintendent had certain powers in connection with a reserve under section 7 of the present Act, but the only way to do what the hon. member suggested would be to make superintendents of mission stations protectors. He was inclined to think it would be a good thing to make them protectors, but it was a matter he had not fully considered. He should be very glad, however, to consider it. It might be a good thing to make the superintendents of Fraser Island, Deebing Creek, Yarabah, Bloomfield, Yeppoon, and Mariana protectors under the Act. The Rev. Mr. Gribble had been very successful in providing in every contract that was entered into for hiring aboriginals on his station a stipulation that the whole of the wages should be paid to the superintendent of the mission. The superintendent then paid half of those wages to the man who earned them, and the other half went to the funds of the mission; and the scheme worked excellently. He also saw that the superintendent at Yeppoon was doing exactly the same thing. Last year £180 was received for wages, and that sum was distributed among the old and infirm on the station and in providing a new suit of clothes for everybody. The men were very proud of being the means of earning that money. He would consider the question of appointing superintendents as protectors.

Mr. LESINA: He was very pleased to see this clause in the Bill. It was an excellent clause. The establishment of a minimum wage at any time was one which members sitting on his side of the Chamber always hailed with a certain amount of glad acclamation, and he had no doubt that members on the other side who voted against a minimum wage for white men would take a peculiar delight in voting for a minimum wage for aboriginals. If an aboriginal native of Queensland was entitled to the payment of a minimum wage for his services he could see clearly that in course of time the Chamber would be educated thoroughly up to the belief in a minimum wage as a general thing. If it was a good thing for blackfellows it was good for whitefellows; a mere difference in colour did not change a principle. He hoped that when the motion of the hon. member for South Brisbane came on they would have members who were voting for a minimum wage for black men voting for a minimum wage for white men. No doubt the Government were showing a certain amount of progressiveness in the adoption of a principle of that kind, and it was a most praiseworthy effort to lift up the industrial position of the aboriginal, and whenever the Government set forth to accomplish a task of that kind they would always have the support of members on his side of the House. He hoped that during the session the Government would come forward with a proposal to give a minimum wage to white workers, who required just as much protection and assistance as aboriginals. He saw from a meeting held the other night that out of 800 odd bootmakers, the majority—married men with families—were receiving £1 8s. per week; and he would expect the Government and their supporters, if they were going to be consistent, to vote for the principle of a minimum wage when opportunity offered. He was very pleased that the opportunity had offered of drawing this distinction.

[10 p.m.] People outside of the colony would now be able to point to the fact that they had adopted this principle in their legislation, that they had conferred the inestimable boon upon their aboriginal fellow-citizens of a minimum wage.

Hon. A. S. COWLEY: We have had it for the last twenty years.

Mr. LESINA: The Minister for Railways said the other night that it was impracticable.

Hon. A. S. COWLEY: Ever since the kanakas have been employed.

Mr. LESINA: It had been provided for the kanakas and blackfellows. Perish the thought that it should be also provided for white men! However, he must congratulate the Government on having overcome their natural prejudices so far as to be able to give anybody the value of their labour. There was hope for them yet, and he trusted before the close of the session they would see that the miserably sweated bootmakers also had a minimum wage.

The CHAIRMAN: Order, order!

Clause 11 put and passed.

The HOME SECRETARY moved as a new clause to follow clause 11—

The protector shall undertake the general care, protection, and management of the property of all aboriginals in the district assigned to him, and may—

(*a*) Take possession of, retain, sell, or dispose of any property of an aboriginal, whether real or personal;

(*b*) In his own name sue for, recover, or receive any money or other property due or belonging to an aboriginal, or damages for any conversion of or injury to any such property;

(*c*) Exercise in the name of an aboriginal any power which the aboriginal might exercise for his own benefit;

(*d*) In the name and on behalf of an aboriginal appoint any person to act as attorney or agent for an aboriginal for any purpose connected with the property of the aboriginal:

Provided that the powers conferred by this section shall not be exercised by the protector without the consent of the aboriginal, except so far as may be necessary to provide for the due preservation of such property.

The protector shall keep proper records and accounts of all moneys and other property, and the proceeds thereof received or dealt with by him under the provisions of this section, and shall for such purpose be deemed to be a public accountant within the meaning of the Audit Act of 1874 or any Act amending or in substitution for that Act.

He might say that this clause had been drawn up in consequence of suggestions made to him by the hon. member for Burke. That hon. member brought under his notice a case in which some man had left, by will, to an aboriginal, property in the nature of horses and other stock of considerable value, but for want of some provision of this kind, the protector had no power to take possession of it, and there was very little left in a very short time. It got into the hands of other people, and the aboriginal had very little to show for what was to him a very handsome bequest. Under these circumstances he was very glad to give effect to the hon. member's ideas, and he asked the Parliamentary Draftsman to embody them in this clause, which he had very much pleasure in now submitting to the Committee.

New clause put and passed.

On clause 12—"Burden of proof of age of consent"—

Mr. GIVENS: He had a most decided objection to this clause, because it was subversive of the most vital principle of common law. It was always recognised that no person accused of an offence should be called on to prove his innocence, but that the burden of proving that he was guilty should rest upon his accusers.

The HOME SECRETARY: There are plenty of precedents for this.

Mr. GIVENS: He thought he could show the absurdity of this provision. The Home Secretary in speaking on the Bill said that the Government found it impossible to sustain a charge of this description simply because they had no means of proving the age of a girl. If the Government, with all the means they had at their disposal, found it impossible to prove the age of the girl, how was it possible for the accused person to prove it? While they were animated by every desire to do justice and see fair play to the aboriginal girls he did not see why they should have a greater desire to protect them than they had had to protect their own females. Would it be said the necessity arose simply because those females were not able to protect themselves? That reason would not hold good for a single instant, because the Criminal Code, section 215, provided—

Any person who—

(1) Has or attempts to have unlawful carnal knowledge of a girl under the age of fourteen years; or,

(2) Knowing a woman or girl to be an idiot or imbecile, has or attempts to have unlawful carnal knowledge of her;

is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

It is a defence to a charge of either of the offences firstly defined in this section to prove that the accused person believed on reasonable grounds that the girl was of or above the age of fourteen years.

That was one of the offences for which it was proposed under this clause to put the burden of proof on the accused person. If it was necessary in the case of an aboriginal or half-caste, because they were not able to protect themselves, would it not be also necessary in the case of an idiot or imbecile girl?

The HOME SECRETARY: No. There is no analogy.

Mr. GIVENS: There must be reasonable belief on the part of the accused that the girl was of a certain age, and that was a sufficient defence; yet in the case of an aboriginal girl, about whom no one could get absolute proof as to age, a man's belief had nothing to do with the case. He must produce absolute proof, which the Home Secretary himself said it was impossible to obtain. A man might be convicted without any possible show of escape on the say-so of a protector.

The HOME SECRETARY: Oh, nonsense!

Mr. GIVENS: He might not be convicted, but that would only be because a jury would not be so unreasonable or bigoted in their action as the Home Secretary or his protectors. Then, again, if they turned to section 219 of the Criminal Code they would find—

Any person who, with intent that an unmarried girl under the age of eighteen years may be unlawfully carnally known by any man, whether a particular man or not, takes her or causes her to be taken out of the custody or protection of her father or mother, or other person having the lawful care or charge of her, and against the will of such father or mother or other person, is guilty of a misdemeanour, and is liable to imprisonment with hard labour for two years.

It is a defence to a charge of any of the offences defined in this section to prove that the accused person believed, on reasonable grounds, that the girl was of or above the age of eighteen years.

Yet it would be no defence to have a reasonable belief as to the age of an aboriginal girl. Why should there be such a difference in the treatment of those two cases? Must the aboriginal get more protection than the white girl? Was not the virtue of the white girl as sacred as that of the aboriginal? While he had every desire to see those brutes punished who would commit offences against aboriginal women, yet there was a more sacred duty imposed on the legislature, and that was to protect the accused person, and to see that he had a fair trial. The clause was a dangerous innovation.

The HOME SECRETARY: It is not an innovation.

Mr. GIVENS: It was an innovation. In the case of a white girl a reasonable belief on the part of the accused, in reference to the age of

the girl, was a sufficient defence. How, therefore, could the hon. gentleman say there was no innovation? Some of those offences involved life punishment.

The HOME SECRETARY: "Reasonable belief" would still come in here.

Mr. GIVENS: No. The burden of proof was thrown on the accused, and there was nothing said about "reasonable belief." The section was explicit.

The HOME SECRETARY: Let us get finished.

Mr. GIVENS: There was no chance of getting finished unless some reasonable concession was made. He was inclined to fight the clause strongly, because it struck a blow at a vital and sacred principle. Though they might have every desire to protect the virtue of the aboriginal women, yet they should not allow that desire to carry them away and induce them to inflict an injustice in another direction. He totally objected to the clause and hoped it would be negatived.

The HOME SECRETARY pointed out, in the first place, that the hon. member was not correct in his reading of that portion of the Criminal Code which he had quoted. He laid great stress upon the offences referred to in subsection 2 of section 215 of the Criminal Code, which provided that any person "knowing a woman or girl to be an imbecile, who attempts to have unlawful carnal knowledge of her, is guilty of a misdemeanour and is liable to imprisonment with hard labour for two years." But it was "a defence to a charge of either of the offences firstly defined in this section"—it did not include the 2nd subsection at all—"to prove that the accused person believed, or had reasonable grounds for the belief, that the girl was of or above the age of fourteen years." That did not apply to an imbecile at all. He did not need to go into the other sections referred to by the hon. member, because what was true of that subsection of the Criminal Code was also more or less true of the others. The hon. member had chosen that subsection as a fair typical instance upon which to base his argument, and he would deal with that. "It is a defence to a charge of either of the offences firstly defined in this section to prove that the accused person believed, or had reasonable grounds for belief, that the girl was of or above the age of fourteen years." That would still be a defence if the clause under discussion became law. The hon. member stated that it was a principle of British law that a man should be taken to be innocent until he was proved to be guilty; but there were a large number of instances, especially of late years, in which the onus of proof—not of the entire negative in regard to a case, but of a portion of it—was thrown upon the defendant. This was one in which it ought to be thrown upon the defendant. A great deal more than the age of the girl had to be proved; that was merely a small incident in the offence. There had to be proof of the offence itself. All that had to be sheeted home to the man, and the only small portion of proof which was thrown upon him was proof of the age of the girl. It might be an impossible thing to prove, but he would show in a moment where the protection to the man came in. He would refer to an instance which he had referred to when moving the second reading, and since then an additional case had come under his observation. The case he referred to on the second reading was this—When he was at the Mapoon Mission Station, on the Batavia River, in the Gulf of Carpentaria, a little more than eighteen months ago, the Rev. Mr. Hey, who was in charge of the mission station, had in his house a tiny little child who looked almost a baby. If he said that she was six years of age he thought he would be overstating the case by a couple of years. That little child had been violated in the most dreadful manner, and her injuries were of such a permanent character as to last during her life, no matter how long she lived. She had also had communicated to her a loathsome disease as the result of the violation. She had been taken off a boat. No absolute proof could be got of the identical man, because there were several men on board——

Mr. JACKSON: Were they white men?

The HOME SECRETARY: He did not think so. He was almost sure they were Manila men. He forgot what age Dr. Roth put the child down at, but it was clear to him, to Mr. Hey, and to everybody who saw her, that, at the very outside, she could not be more than seven years old. Yet, even although the rest of the proof had been forthcoming—even if the man had been caught in the Act—the prosecution would have failed, because it was only a matter of opinion as to what the child's age was.

Hon. A. S. COWLEY: Would it have failed if you had been the magistrate?

The HOME SECRETARY: Magistrates did not try those cases.

Hon. A. S. COWLEY: Well, if you had been on the jury?

The HOME SECRETARY: He would come to the jury presently to show where the protection came in under the clause. Another case had come under his notice since he moved the second reading. It was not an isolated case. The hon. member for Cairns spoke of its being a matter of life and death. It was a matter of life and death to those children, because both those children were absolutely ruined for life. Their lives would be a burden to them no matter how long they lived. He understood that the second girl was now in a dying condition as the result of her injuries. She was at Mapoon, too. Such cases showed the necessity for getting at those villains. He did not say that the hon. member had been at all unfair in his argument, but he admitted the almost impossibility of proving the age by legal proof; and yet, as the law stood, it was necessary that legal proof of it should be submitted to the jury, otherwise the judge would direct them that the case had failed, although the jury might be perfectly satisfied that the child was much less than fourteen years.

Mr. GIVENS: There is another way out of the difficulty.

The HOME SECRETARY: The way he proposed was the only way out of the difficulty, and he would show the hon. member where the security to the accused came in. The jury must be a jury of twelve white men. And did any hon. member suppose that any jury of twelve white men would convict a white man, or any man, of an offence of that kind upon a girl, unless they were thoroughly satisfied that she was well over the age of fourteen years? The Crown was handicapped, because it had to prove an affirmative—that the child was over a certain age, and that was impossible in the case of aboriginals, because their parents had no idea of time. It was quite impossible for the prisoner to prove that, but his security lay in the jury, because, when this became law, there would be no judge to say to the jury:—"This case has failed because of the failure of the Crown to prove a technicality. You may be thoroughly well satisfied in your own minds, gentlemen, that this child is only seven or eight years of age, but you have no legal proof of it, either in the evidence or by documents. Therefore, although the evidence in all other respects is absolutely complete, still for [10·30 p.m.] want of this legal proof you must acquit the prisoner." Was that a nice state for the law to be in? He said no,

and so far as his knowledge went the way he proposed was the only way out of the difficulty. And it was a perfectly safe one, for no white man, or no black man, would ever be convicted of an abuse against an aboriginal female unless the jury were thoroughly satisfied, from the appearance of the female, that she was not over the age of fourteen years. No protector would be mad enough to bring a case in which a girl appeared as the complainant if she had the appearance of having attained the age of puberty. Nor would any jury convict under those circumstances. The object was to get at those cases which were so shocking in their details. Moreover, there was the paragraph which the hon. member read as to the belief on reasonable grounds of the prisoner as to what the age was. A jury might say they have grave doubts that a girl does not look like fourteen years of age, but that the prisoner had reasonable grounds for thinking she was. He did not think there was the slightest risk of injustice being done, and injustice was done now when scoundrels escaped who ought to be convicted.

Mr. GIVENS said it was no doubt most desirable that some means should be found to punish the unmitigated scoundrels who committed those crimes, but they must not legislate for individual cases, or allow themselves to be led into panic legislation, simply because some gross cases had arisen. What he was fighting for was a vital principle of law, to retain the two safeguards which surrounded an accused person. The Home Secretary proposed to remove one of those safeguards. The hon. gentleman said the girl's age was before the jury to see, and that the age was a mere incident. In every one of the cases enumerated in the Criminal Code the age was vital. Section 212 dealt with the defilement of girls under twelve. There the age was not a mere incident. The same occurred in section 213. Section 214 dealt with attempts to abuse girls under ten, section 215 with the defilement of girls under fourteen, and section 219 with the abduction of girls under eighteen with the intention to have carnal knowledge. In all those cases the age was not a mere incident. It was the real charge.

The HOME SECRETARY: I should have thought the carnal connection was the real charge.

Mr. GIVENS: No; carnal connection had nothing to do with it if the girl was over the age stated. His principal reason for objecting to the clause was that the rights and privileges of accused persons should be safeguarded, and that no right which exists at present for the protection of persons who were in the position that their life and liberty were liable to be taken away from them, should be removed. He was not speaking on behalf of the scoundrels who committed those offences, but on behalf of innocent people who might be charged with them. It would be better that almost any evil should accrue rather than that one innocent person should be punished. Now as to the way out of the difficulty. That could be effected by inserting a clause to the effect that the case was clearly proved if two doctors testified that the girl was under age. Any medical man of experience could tell when a girl had reached the age of puberty, and the age at which girls reached that stage did not vary so very much. A provision of that kind would preserve the rights and privileges of accused persons, and at the same time attain the object the Home Secretary had in view. We should not invade any of those rights and privileges.

The HOME SECRETARY: They are not invaded.

Mr. GIVENS maintained that it was a distinct innovation, and he hoped the amendment would be accepted. The Government could always get two doctors in any town where a District Court or a Supreme Court was held, and the Home Secretary could draft a clause providing that the sworn testimony of two doctors as to the age should be conclusive.

Hon. A. S. COWLEY: Two other doctors might express a different opinion.

Mr. GIVENS: Of course it was well known that doctors differed, but even amongst laymen there could not be such a huge difference.

The HOME SECRETARY: I propose to leave it to laymen.

Mr. GIVENS: Laymen would not have the opportunity of examining the girl. Were the jury going to take the girl into the jury-room and examine her there, the same as she would be examined by medical men? No jury should be expected to do that. Besides, they had not the necessary technical knowledge. He respectfully submitted that the amendment was one which the Home Secretary might very well accept.

The HOME SECRETARY: He could not see how an accused person would be a bit better off with the amendment proposed unless it happened that there were only two medical men and they gave it as their opinion that the child was not under a certain age. As the hon. member for Herbert said, there might be two other medical men expressing doubt as to the age stated by others.

Mr. GIVENS: Then the jury would weigh the evidence.

The HOME SECRETARY: Would not the function of the jury come in when they saw the child? What was the value of evidence which was merely expression of opinion, and which was contradicted by somebody else who said he was of a different opinion? He had seen in the Supreme Court, in a case in which he was engaged, as many as nine doctors—four on one side and five on the other—on a matter of scientific opinion, and the doctors on each side were positive that they were right. If the jury had the slightest doubt as to the child being under or over the age, they would give the prisoner the benefit of the doubt; and he would rather trust to a jury than to the opinion of two medical men. The question of the age of puberty in the case of an aboriginal was different from what it was in the case of a white child. Dr. Roth had studied this matter, and he found the greatest difficulty in giving a distinct opinion as to the age of puberty in the case of an aboriginal girl.

Mr. DUNSFORD: Yet the accused person would have to do that.

The HOME SECRETARY: Yes. And of course he could not do it. The protection of the accused person was the jury, because they would never convict if there was the slightest doubt.

Hon. A. S. COWLEY: The hon. member says that if two doctors testify to the age the accused person should be convicted.

The HOME SECRETARY: If the hon. member meant that the evidence of two medical men that the child was under age should be conclusive evidence against the prisoner, he would very much rather leave it to the jury. And if it was to be only *primâ facie* evidence, a doubt would probably be expressed by other medical men, and the only safe way to secure a conviction when it ought to be obtained was by passing the clause as it stood.

The ATTORNEY-GENERAL (Hon. A. Rutledge, *Maranoa*) thought the fears of the hon. member for Cairns were groundless. It did not follow that because some person laid a charge against a man that he was going to be taken by the scruff of the neck to the police court, and afterwards to the Supreme Court, to

be tried on a charge of this sort. The case had to go through the hands of the grand jury, and he could assure the Committee that in cases of that sort men were not rashly put on their trial. The Crown Prosecutor's duty in a matter of that sort would be to secure the very best medical evidence as to the age of the child before attempting to find a true bill. So there was the double safeguard of a true bill having to be found, and of the jury using their common sense to see that the child was really not above a certain age. There was no reason to place an actual impediment in the way of convicting a man by insisting upon the amendment. There was no means of ascertaining the age in the case of aboriginals.

Mr. GIVENS: Why put the burden of proof on the prisoner?

The ATTORNEY-GENERAL: The burden of proof had to be put on the prisoner or on the Crown. The Crown did not go conjuring round trying to secure convictions. In a case of this sort no true bill would be found, unless the grand jury had the satisfactory evidence of two medical men, to justify the Crown in proceeding with the charge.

Mr. GIVENS: The contention of the Attorney-General might hold good as long as he was the head of the Department of Justice in Queensland, but he would not always be in that position.

The HOME SECRETARY: It is the established practice.

Mr. GIVENS: Notwithstanding that it was the established practice, there had been dozens of abuses in this connection. A Crown Prosecutor might be in a hurry, on a carouse, or something else, and he might find a true bill all the same. No doubt there were exceptional cases, but they should not go in for this sort of legislation simply because of those exceptional cases. It had been said that his suggestion might lead to men escaping, but an accused person was not a criminal until he was proved guilty by a jury of his peers. Yet he was burdened with the onus of proof of his innocence, and the Attorney-General admitted that the accused person could not get that proof. Were it not for the fact that members of the legal profession did not like to accept suggestions from laymen like himself, his suggestion would no doubt have been accepted.

Mr. LESINA thought the Home Secretary ought to give better reasons than those he had advanced, why he could not accept the suggestion of the hon. member for Cairns, and why he had inserted in the Bill such a drastic provision as this. In the American States—in what they call the black belt, where they had to deal with coloured people—in some States the age of puberty was seven, in several eight, in two nine, in others ten, and eleven, and twelve.

The HOME SECRETARY: The cases are not in point.

Mr. LESINA: Here, if a man was charged with having connection with a female, the burden of proof as to age would rest on him, and that was really multiplying crime, and allowing loops all over the country for the hanging or imprisoning of men. He protested against this drastic clause going through without a much stronger fight being made over it. It was entirely changing the public idea with regard to the administration of justice. A charge should be proved up to the hilt before a man was convicted; and yet an accused person, under this clause, would have to go to the expense and trouble—if he were allowed—of running all over the country to get medical evidence. Then, medical testimony was not infallible. The man Butler, in New South Wales, who was charged with a criminal offence on a woman, was released on the morning fixed for his execution. Two medical men said that the woman had been *virgo intacta* before the assault, and it was afterwards proved that she had been two years on the streets in Queensland. So much for medical evidence! Even if they got medical evidence it would be unsatisfactory.

The HOME SECRETARY: That is what the hon. member for Cairns wants. I would prefer the jury myself.

Mr. LESINA: There would be both in this case. The clause placed accused persons in a very precarious position, and it should be eliminated.

Question—That clause 12 stand part of the Bill—put; and the Committee divided:—

AYES, 23.

Mr. Annear	Mr. Keogh
,, Bartholomew	,, Leahy
,, Boles	,, Maxwell
,, Bridges	,, Newell
,, Cameron	,, O'Connell
,, T. B. Cribb	,, Paget
,, Curtis	,, Philp
,, Dalrymple	,, Rutledge
,, Fox	,, Stephenson
,, Foxton	,, W. Thorn
,, J. Hamilton	,, Tooth
,, Hanran	

Tellers: Mr. Bridges and Mr. Stephenson.

NOES, 15.

Mr. Barber	Mr. Jackson
,, Bowman	,, Kerr
,, Burrows	,, Lesina
,, Dunsford	,, Mulcahy
,, Fitzgerald	,, Ryland
,, Givens	,, Turley
,, W. Hamilton	,, Turner.
,, Hardacre	

Tellers: Mr. W. Hamilton and Mr. Kerr.

PAIR.

Aye—Mr. Stodart. No—Mr. Fogarty.

Question resolved in the affirmative.

CHIEF JUSTICE'S SALARY BILL.

MESSAGE FROM COUNCIL.

The SPEAKER announced the receipt of a message from the Council returning this Bill without amendment.

The House adjourned at six minutes past 11 o'clock.