

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Council**

**TUESDAY, 30 AUGUST 1910**

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## LEGISLATIVE COUNCIL.

TUESDAY, 30 AUGUST, 1910.

The PRESIDENT (Hon. Sir Arthur Morgan, took the chair at half-past 3 o'clock.

## MACANSH ESTATE BILL.

## PRESENTATION OF REPORT OF SELECT COMMITTEE.

HON. A. J. THYNNE presented the report of the Select Committee on this Bill, and moved that it be printed.

Question put and passed.

On the motion of HON. A. J. THYNNE, the second reading of the Bill was made an Order of the Day for to-morrow.

## DEMISE OF THE CROWN BILL.

## FIRST READING.

HON. A. H. BARLOW presented this Bill, and moved that it be read a first time.

Question put and passed.

The second reading was made an Order of the Day for to-morrow.

## SUSPENSION OF STANDING ORDERS.

HON. A. H. BARLOW, in moving—

That so much of the Standing Rules and Orders be suspended as would otherwise preclude the passing of an Appropriation Bill through all its stages in one day—

said: We have some hope of getting the Appropriation Bill to-day so as to obviate the necessity of delay.

Question put and passed.

## JURY BILL.

## COMMITTEE.

Clauses 1 to 7, both inclusive, put and passed.

On clause 8—"Exemption"—

HON. M. JENSEN moved, on behalf of the Hon. Mr. Nielson, who was unable to be present, the insertion, on page 4, after line 12, of the following words:—

Licensed surveyors;

Journalists *bona fide* and exclusively employed as such.

The reasons for the exemption of licensed surveyors were the extreme inconvenience to a surveyor if he were taken away from his camp, when, in most cases, there would be no competent man left in charge, and that a large number of licensed surveyors were engaged on Government work. With regard to the exemption of journalists, there was a tacit understanding to keep them off juries because of the very great inconvenience to a man who was engaged in night work to be compelled to leave that work and work by day. It seemed to him that the amendment was a reasonable one, and he hoped it would commend itself to hon. members.

HON. A. J. THYNNE said he would like to add licensed auctioneers to the list of exempted persons. Mr. Jensen had spoken of the licensed surveyor who did his work personally, and, if he were absent, had his whole staff unemployed.

*Hon. A. J. Thynne.]*

The CHAIRMAN: I would suggest that the Council should allow the amendment already proposed to be dealt with first, and then the hon. member can move the amendment he desires to make afterwards.

HON. A. J. THYNNE: A licensed auctioneer was not at liberty to carry on business except personally. He could not employ his clerk or any member of his staff to conduct a sale. It would be very detrimental to business on many occasions unless licensed auctioneers were exempted. He therefore proposed to add to Mr. Jensen's amendment the words "Licensed auctioneers actually employed as such."

Hon. M. JENSEN: I accept the amendment, for the same reasons as I gave.

The ATTORNEY-GENERAL said he did not object to the amendment; but, in order to make it read properly, he suggested that it take this form, "Licensed surveyors, licensed auctioneers, and journalists *bonâ fide* employed as such."

HON. M. JENSEN asked leave to withdraw his amendment.

Amendment, by leave, withdrawn.

The ATTORNEY-GENERAL moved that the words "Licensed surveyors, licensed auctioneers, and journalists *bonâ fide* employed as such" be inserted after line 12.

HON. F. McDONNELL said he did not know whom the hon. gentleman intended to have on juries after all the exemptions were made. It was proposed to exempt auctioneers, licensed surveyors, schoolmasters, officers of banks, barristers and solicitors and their clerks. If they were going to exempt all those persons from acting as jurists it would be just as well to include a few more. He could quite understand the position taken up by Mr. Jensen in regard to licensed surveyors, as it might be extremely inconvenient if they were taken from their work.

HON. A. A. DAVEY: It is inconvenient to everybody to be on a jury.

HON. F. McDONNELL: It would be a good deal more inconvenient to licensed surveyors than to some other members of the community; but he certainly thought some others should be exempted for the same reason. By the clause barristers, solicitors, conveyancers and their clerks were exempted. Then, again, managers and other officers of banks were exempted. That took in the whole of the bank staff. The Bill also exempted members and clerks of local authorities. For the life of him he did not understand who were going to act as jurors. They also proposed to exempt justices of the peace.

The ATTORNEY-GENERAL: No.

HON. F. McDONNELL: As all those different interests were represented in the exemptions, it was quite natural that the commercial interests should look for a few exemptions, and he intended to move an amendment in that direction.

HON. A. J. THYNNE: Have you seen the list of exemptions under the present law?

The ATTORNEY-GENERAL: It is practically the same.

HON. F. McDONNELL: The amendment he would like to move would be to insert the words "Departmental managers of commercial houses, including managers, accountants, and ledger-keepers," after subsection (xiii).

[Hon. A. J. Thynne.

The ATTORNEY-GENERAL asked leave to withdraw his amendment.

Amendment, by leave, withdrawn.

HON. F. McDONNELL then moved the insertion, after line 11, of the following words:—

Departmental managers of commercial houses, including managers, accountants, and ledger-keepers.

The ATTORNEY-GENERAL regretted he could not accept the amendment. The hon. member commenced his remarks by stating that there were too many exemptions already, and then he proposed to add a few more. Departmental managers and ledger-keepers were the very class of men that they wanted on juries, as they were some of the most intelligent in the whole community, and it would be a great mistake to exempt them. The clause was practically re-enacting the existing law, and the exemptions were practically the same in the other States. No single class of persons had been exempted without good reasons, and the same reasons did not apply to commercial managers.

HON. F. McDONNELL: If there were good reasons for a number of the proposed exemptions, there were equally good reasons why the particular persons he had named should be included in the exemptions. The Attorney-General stated that they wanted intelligent persons on juries, such as ledger-keepers and managers of commercial houses. Was that not a reflection on the persons exempted? It would be recognised by commercial members that the times at which juries were summoned were the busiest times of the year; and the inconvenience caused to an auctioneer if he were called upon to serve on a jury was nothing at all to the inconvenience caused to a number of commercial houses by having their accountants or ledger-keepers called away day after day to attend at court. He was exceedingly sorry that the Attorney-General could not see his way to accept the amendment, particularly as there were 600 or 800 names now included in the jury list that were not included under the old Act—that was, the justices of the peace.

The ATTORNEY-GENERAL: About 1,000.

HON. F. McDONNELL: That was a big number to be called on, and the Attorney-General having agreed to some of the exemptions, he could not logically object to the exemptions he (Mr. McDonnell) had moved, and he hoped the hon. gentleman would reconsider the matter.

HON. A. H. BARLOW: A great many of the exemptions were of persons who were discharging public duties, such, for instance, as members of local authorities and members of Parliament. Managers and officers of banks had been exempt as long as he could remember, as, if they were called away from their business, it might lead to forgery. The officers of banks had charge of large sums of money, and were supposed to look after the safety of that money.

HON. A. J. THYNNE: Some of the hardest-fought cases were in connection with such things as dressmakers' bills, and [4 p.m.] departmental managers were better fitted to decide whether a dress was made to fit a lady or a lady to fit a dress.

HON. A. A. DAVEY: Supposing it happens to be a dentist's bill?

HON. B. FAHEY: Why should members of Parliament be exempt when Parliament is not sitting?

Question—That the words proposed to be inserted (*Hon. F. McDonnell's amendment*) be so inserted—put; and the Committee divided:—

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Hon. T. C. Beirne	Hon. F. McDonnell
„ A. A. Davey	„ P. Murphy
„ B. Fahey	

Teller: Hon. B. Fahey.

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Hon. A. H. Barlow	Hon. C. F. Marks
„ F. T. Brentnall	„ A. Norton
„ W. V. Brown	„ T. O'Sullivan
„ A. J. Carter	„ R. H. Smith
„ J. Cowlishaw	„ W. F. Taylor
„ T. M. Hall	„ A. J. Thynne
„ F. H. Hart	„ H. Turner
„ M. Jensen	

Teller: Hon. T. M. Hall.

Resolved in the negative.

HON. A. A. DAVEY hoped that the Attorney-General would include commercial travellers in the list of exempted persons. They were travelling all over the country and were continually away from home; and it might happen that just at the time they were visiting their base they might be summoned to serve on a jury, and it might be very inconvenient for them and for their firms. He begged to move that the words "commercial travellers" be inserted after line 12.

The ATTORNEY-GENERAL asked the hon. member not to press the amendment. He drew his attention to subclause (4) of clause 10, which read—

And, generally, the court before which any person is summoned as a juror may, upon application made in open court, in its discretion discharge such person from further attendance at such court, or excuse him from attendance for any period during the sittings of such court.

An objection to the exemption proposed was that there was no definition of a commercial traveller. Any man might call himself a commercial traveller and claim exemption. All the persons set out in the clause could be exempted without the slightest trouble. In the event of a commercial traveller being absent and not being served with a summons, he did not think there would be any difficulty in getting him exempted under clause 10.

HON. A. A. DAVEY: His misfortune might be that he might be here.

The ATTORNEY-GENERAL: Even if he was here, he was quite certain that all that was required was to make an application to the judge.

HON. F. McDONNELL: Yes; and a cranky judge might not exempt him.

The ATTORNEY-GENERAL: They could not legislate for a cranky judge. They must assume that judges would be reasonable persons, who would act fairly. If the proposed exemptions were agreed to, an hon. member might get up and move another. Seeing the general power of exemption which was given to judges, the exemptions set forth in the clause were quite sufficient.

Amendment put and negatived.

The ATTORNEY-GENERAL again moved the insertion, after line 12, of the following:—

(xv.) Licensed surveyors, licensed auctioneers, and journalists *bonâ fide* employed as such.

HON. A. A. DAVEY thought this was going rather fast. He could not see that there was any more necessity for exempting a surveyor or an auctioneer than there was for exempting a commercial traveller. A journalist was a

very important factor in the community—almost as important as a commercial traveller. (Laughter.) An auctioneer certainly did not come in the same category at all in connection with a matter of this sort, and the same might be said of a licensed surveyor. No argument had been advanced in support of the amendment, and he would vote against it.

HON. P. MURPHY: In the exemptions in the clause every interest in the State had been considered but the commercial interest. They had public servants, members of Parliament, barristers, solicitors, ministers of religion, medical practitioners, dentists, and so on excluded, but there was not a single exemption in favour of the commercial community, which was one of the most important interests in the State. He could not understand why managers and officers of banks should be exempted and not managers and officers of other large commercial concerns, and he would like some explanation. There might be good reason for it, but so far, he could not see any. What special functions had an ordinary clerk to a conveyancer or a solicitor? Of course, it might be said of the solicitor's clerk that his employer might be employed on the case, but in such a case the other parties to the case had the right of challenging him. There were just as strong reasons why various individuals in commercial life should be exempted from serving on the jury as in the public service and professional life of the State. He had frequently noticed in Bills going through Parliament that very little consideration was given to commercial interests, and he certainly thought that that was one of the cases where the commercial community had very just reason to complain that their interests had been entirely neglected.

HON. T. M. HALL: The argument of the hon. member missed the point. The interests of the commercial community could be best served by having intelligent juries composed of commercial men.

AN HONOURABLE MEMBER: They are nearly all commercial cases.

HON. T. M. HALL: Not all, but a great many were commercial cases; and in those cases they should not be deprived of a wide range of selection.

HON. P. MURPHY: Why exclude officers of banks?

HON. T. M. HALL: There were good reasons for not including them in the jury list, but by excluding further members of the community they were only making the case worse. They were only reducing the facilities for obtaining jurymen. The Hon. Mr. Davey had referred to commercial travellers. He (Mr. Hall) in his experience had never known a case of hardship suffered through a commercial traveller being summoned to attend on a jury, and he would have liked to hear something that would have indicated the disadvantages suffered by commercial travellers in such cases. It was well known that commercial travellers had to visit any part of the State on short notice, and it would be very inconvenient to themselves, as well as to their employers, if they were kept in town for a month or two; but he had never known of any particular disadvantage being suffered by a commercial traveller in this respect, as very large discretionary powers were exercised in selecting the jury panel.

HON. A. A. DAVEY: Why not exempt them?

*Hon. T. M. Hall.]*

HON. T. M. HALL: If you start to name one, you must name the lot. There were legitimate reasons why they should exempt the commercial traveller. Although he was on the list, he was very seldom called upon, because the discretionary power was such that, as a rule, he was omitted. If they were going to discriminate, and hack the Bill about to such an extent as to make exemptions here and exemptions there, they would have some difficulty in putting anything satisfactory in it. Personally, he had a very strong aversion to a jury at all, except where a man was being tried for his life, or where his liberty was at stake. He believed the commercial laws would be better administered by a judge without a jury, especially in cases where legal points were involved, and where extensive knowledge was required; but while the jury remained, they should endeavour to include in that jury as many intelligent men as they could. If they agreed to many more exemptions, they would be limiting themselves to men who had no experience in those matters, and that would probably lead to a miscarriage of justice.

HON. A. A. DAVEY: You do not mean to say those men are not intelligent?

HON. F. McDONNELL thought they ought to add to that intelligent number of jurors. If they excluded solicitors and conveyancers, he could not for the life of him see why their clerks should be exempted, and he intended to move to that effect.

The ATTORNEY-GENERAL: We are at present dealing with a later amendment.

HON. F. McDONNELL: It was within the province of the Committee to go back, and deal with a previous part of the clause.

The CHAIRMAN: It can only be done by a recommitment of the Bill.

HON. F. McDONNELL said he wished to move an amendment in subsection (v.) of the clause.

The CHAIRMAN: There has been an amendment moved and negatived subsequent to that part of the clause.

HON. F. McDONNELL: As he would be out of order in moving the amendment at that stage, he would like to know if the hon. gentleman in charge of the Bill was prepared to recommit it.

The ATTORNEY-GENERAL: I will recommit it when we have finished it.

Amendment agreed to.

Clause, as amended, put and passed.

Clause 9—"Disqualification or exemption not to affect list"—put and passed.

On clause 10—"Court may excuse juror"—

HON. A. J. THYNNE: On line 33, a member of a volunteer fire brigade was exempted. He did not think the exemption should be limited to members of volunteer brigades. In Brisbane the paid brigade was responsible for the very best part of the fire work, and its members should be put in the same position. The volunteer fire brigades were composed of men who were not regularly employed at the work, but attended occasionally. He therefore moved that the word "volunteer" be omitted so that the clause would apply to the members of any fire brigade.

Amendment agreed to.

Clause, as amended, put and passed.

Clauses 11 to 26, both inclusive, put and passed.

[Hon. T. M. Hall.]

On clause 27—"Right of trial by jury in civil causes"—

The ATTORNEY-GENERAL moved that on line 32, after the word "jurisdiction," the following be inserted:—

and all civil causes instituted in the Supreme Court in the exercise of the jurisdiction conferred on it by the Colonial Courts of Admiralty Act, 1890.

Hon. members would notice that the subsection was the one that dealt with civil causes that might be tried before a judge without a jury unless otherwise ordered. Admiralty actions were now tried with [4.30 p.m.] judges without a jury, and some doubt as to the construction of the clause might arise if the amendment were not put in. The effect of the amendment was to leave the law as it now stood.

Amendment agreed to.

The ATTORNEY-GENERAL moved the insertion of the following subclause:—

(4) Nothing in this section shall be construed to affect the provisions of section twenty-eight of the Matrimonial Causes Jurisdiction Act of 1864.

Hon. members would notice that matrimonial causes were not referred to in the clause. Section 28 of the Matrimonial Causes Jurisdiction Act of 1864 made it necessary to try the question of damages in a divorce suit by a jury. It was not considered advisable to alter the law in that respect, and it was thought better to put in this subsection to remove any doubts that might arise as to whether the law had been altered in that respect.

Amendment agreed to.

Clause, as amended, put and passed.

Clauses 28 to 47, both inclusive, put and passed.

Clause 48—"Peremptory challenges"—passed with verbal and consequential amendments.

Clauses 49 to 55, both inclusive, put and passed.

On clause 56—"Several causes may be tried by same general jury without redrawing if not objected to"—

The ATTORNEY-GENERAL said that he wished the Committee to negative the clause. The Bill provided that civil causes must be tried by a special jury, and this clause was drawn on the assumption that civil causes could be tried by a general jury, and it, therefore, conflicted with other provisions of the Bill, which provided that civil causes must be tried by a special jury. On consideration, it was thought that the clause would not be very much used. Apparently, it was an experiment that had been tried in New Zealand. It would enable a jury which had been sworn and had tried a case to try another, or perhaps two or three other cases, with the consent of the parties interested.

Clause put and negatived.

Clause 57—"Duration of attendance of general juror"—passed with a verbal amendment.

Clauses 58 to 68, both inclusive, put and passed.

On the motion of the ATTORNEY-GENERAL, the following new clause was inserted to follow clause 68:—

The Governor in Council may, from time to time, make all such regulations as he deems necessary for giving full effect to this Act.

All such regulations shall, upon publication in the *Gazette*, have the same effect as if they were enacted in this Act, and shall not be questioned in any proceeding whatsoever.

Schedules I. to VI., both inclusive, put and passed.

The Council resumed, and the CHAIRMAN reported the Bill with amendments.

#### RECOMMITTAL.

The ATTORNEY-GENERAL moved that the Bill be recommitted for the purpose of further considering clause 8.

Question put and passed.

#### COMMITTEE.

HON. F. McDONNELL moved the omission in subclause (v.) of the words "and their clerks." He could understand barristers and solicitors, and even conveyancers, being exempt from service on juries, but he could not understand why their clerks should be exempt. They were all highly intelligent men.

The ATTORNEY-GENERAL: The list of exemptions, as far back as he could trace it, had always included barristers, solicitors, and conveyancers, but not their clerks. He had looked up the Jury Act of 1867, and he found that the clerks were not included in the exemptions there, but he thought the reasons for exempting barristers and solicitors would also apply to their clerks. The parties to an action might be clients of their employers, and, if the latter had any bias one way or the other, it was sure to be shared in by the clerks. As he had pointed out, the inclusion of clerks was an innovation, but he thought it was a very necessary innovation.

Hon. F. McDONNELL: What about conveyancers?

The ATTORNEY-GENERAL: They are practically in the same category as solicitors. Conveyancers were paid professional men who did a part of a solicitor's work. Solicitors did general work, but conveyancers did business in connection with real property only. If the exemption applied to solicitors' clerks, it should also apply to conveyancers' clerks.

HON. A. J. THYNNE: One of the reasons for exempting professional men was that they knew too much. On the jury they were supposed to bring common-sense to bear, and not law or technicalities. The same thing applied to solicitors' clerks, as they would be likely to impress jurymen who were not possessed of that technical knowledge to an extent that was not desirable for the success of trial by jury. He was not aware that under the present Act solicitors' clerks were not exempt, but he had never heard of one being on a jury—they were never summoned. He did not know whether that was the experience of other professional men.

The ATTORNEY-GENERAL: I have never heard of them being on a jury.

HON. A. J. THYNNE: In the course of his professional experience, which was not a short one, he had never heard of a solicitor's clerk being summoned on the jury. The jury should be composed of practical, common-sense business men, who had to decide those questions apart altogether from mere points of law. In the unwritten law relating to the profession, barristers and solicitors were regarded as officers of the court, and it

was on that basis they were exempted—that they were discharging a public duty as officers of the court.

HON. F. McDONNELL: We are not objecting to barristers and solicitors.

HON. A. J. THYNNE: During his forty years' experience in the profession here he had never heard of a solicitor's clerk being summoned to the jury.

HON. F. McDONNELL: That is a good argument in favour of the amendment.

HON. A. J. THYNNE: It was a good argument in favour of keeping the clerks exempted. Although some of the clerks bore as high a character as a professional man could, still there were other solicitors' clerks whom it was not desirable, owing to their character, to have on a jury to discharge a public duty.

HON. P. MURPHY: The same thing might apply to all clerks.

HON. A. J. THYNNE: As there was not one single instance where a solicitor's clerk had been called to act on a jury, why not make it clear by law?

HON. P. MURPHY: One of the reasons given against the amendment was that the clerks of solicitors would be prejudiced. That, he took it, was meant to refer to an instance where a solicitor was engaged in a case: If his clerk was on the jury in that particular case, it was considered he would be prejudiced in favour of the client for whom his employer was working. The same thing might be said of the clerk in a commercial business. He might be called to act on a jury, and it would be a fair ground for the barrister of the other party to challenge him in the same way as he would challenge the clerk of the solicitor who was acting for the opposing party.

HON. A. J. THYNNE: Sometimes you have to take someone you do not want at all.

HON. P. MURPHY: The position was that the clerks of the defendant or the clerks of the plaintiff were eligible to sit on the jury, while the clerks of the solicitor employed for the defendant or the clerks of the solicitor employed for the plaintiff were not eligible. The Hon. Mr. Thynne stated that, although the clerks of solicitors and conveyancers were eligible to be summoned as jurors, there had never been an instance in his recollection where one of them was summoned. He (Mr. Murphy) wondered what public officer had neglected his duty. It was the duty of someone to summon jurymen, and, if law clerks were not exempted by Act of Parliament, why did that officer take it upon himself not to summon them? That matter should be inquired into. Practically some official was over-riding an Act of Parliament. Clerks to solicitors as a rule were very intelligent men, and why should they be excluded from serving on a jury any more than clerks in commercial houses? They had just as much experience, and as much general knowledge, to enable them to serve intelligently on the jury as any other clerk in the community, and they should not be exempted.

The ATTORNEY-GENERAL: Probably the reason why solicitors' clerks had not been summoned to act on juries in the past was because of the property qualification. There was a property qualification in the past, and that was quite sufficient to exclude nearly all clerks. There was no property qualification under the Bill. Solicitor's clerks were practically in the same position as solicitors, and

*Hon. T. O'Sullivan*

were always mixed up in litigation, directly or indirectly. A clerk in a commercial house was not mixed up in litigation once in a hundred times, and, therefore, it was far better to exclude the clerks of solicitors and conveyancers, and not leave it to the barrister to exclude them by means of the challenge. Sometimes, in the case of a special jury of four, counsel were only allowed two challenges, and they might not be able to exclude a man from sitting on the jury who was the clerk of a person who was interested in the case in some way. He hoped the Committee would pass the clause as printed.

HON. A. A. DAVEY: The Attorney-General had not advanced any reasons why lawyers' clerks should be exempted. He had paid a pretty high compliment to the commercial community; and the Hon. A. J. Thynne had also done so—unintentionally, he thought.

Hon. A. J. THYNNE: No, no!

HON. A. A. DAVEY: A clerk in a commercial house might be more interested in a verdict than a solicitor's clerk could be, because it was only a matter of business with the solicitor. It had been stated that solicitors and conveyancers' clerks should be exempt because they would be biased persons. The very suggestion of the idea of bias was uncomplimentary. It did not matter whether a man was a solicitor's clerk or a clerk in a commercial house; when once he went into the jury box to do his duty to his country, he should do his duty without any thought as to whether his particular concern or particular employers were interested in the matter. It had been said that it was owing to the property qualification in the past that solicitors' clerks had not been called upon. The same thing might be said about commercial travellers. If it was necessary to insert a provision that the clerks of solicitors and conveyancers should be exempt, it was equally important that they should also exempt commercial travellers. There was no reason why, not having been called on in the past, they would not be called upon in the future. The good sense probably of officers in the past had guided them in not calling upon people, such as commercial travellers and solicitors' clerks, to serve on juries; but they were making provision to exempt solicitors and conveyancers' clerks, and there was no reason in the world why they should be exempt unless they also agreed to exempt commercial travellers. It was quite possible, as had been suggested, that there were too many exemptions. The Hon. Mr. Fahey had asked why members of Parliament should be exempt when Parliament was not in session, and he did not know why they should. He thought solicitors' clerks would be very useful members of a jury, because, by reason of their occupation, they would have a lot of information that the ordinary man in the street would not have, and they would probably be able to arrive at a proper conclusion on the evidence. He was going to oppose the exemption of solicitors and conveyancers' clerks.

HON. M. JENSEN: It appeared to him that the objection to the exemption of solicitors' clerks was that they knew too much. Mercantile clerks were not all their time about the court, but solicitors' clerks were. Supposing a solicitor's clerk was summoned for a particular sitting at which his employer had a case, what would he do on behalf of his employer? He would be making inquiries—of course never

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from the jurymen—as to their leanings, their ideas, political or otherwise, in order to be in a position to challenge them; and there was nothing improper in that—it must be done. He never approached the jurymen—that would be manifestly wrong; but he always knew whom to challenge and whom not to challenge. That same solicitor's clerk would be sitting on the jury a little later on, and later still there might be an argument between him and some other solicitor's clerk by reason of their work in connection with the case. He hoped the amendment would be negated. That difficulty did not arise in connection with commercial men. In the case put by the Hon. Mr. Murphy, A was a commercial man and B was another. If they had a dispute, their clerks might be on the jury, but the probabilities were immensely against it as compared with the chance there was in the case of solicitors' clerks.

HON. W. V. BROWN thought there was one reason why the solicitor's clerk should be exempt. It often happened that he was engaged in preparing the case, or had charge of a case which his principal had to take into court; and it would be extremely awkward for the clerk as well as for his employer if he were compelled to surrender the conduct of the case in order to take his place on the jury. If it was an intricate case, the solicitor could not get another clerk to take up the work at a moment's notice.

Hon. A. A. DAVEY: You will have the same difficulty in getting a man to take the place of a leading man in a commercial house.

HON. B. FAHEY: The Council had been frequently charged with not possessing progressive ideas, but he was very pleased to hear the very progressive views that had been uttered by hon. members that afternoon. He thought that the amendment suggested by the Hon. Mr. McDonnell to exempt the managers in commercial houses might have been accepted with a good grace, although he did not know what might happen in another place. There were very important commercial houses, especially in Brisbane, and the heads of them might very well have been exempted. There were others in the community who might very well not have been exempted. For instance, when Parliament was not in session, hon. members need not have been exempted. However, notwithstanding the number of exemptions, he quite realised that there was sufficient intelligence in the community, commercial and otherwise, to form the basis of very good juries. Touching the question of whether lawyers' clerks should be exempted, he would regard the inclusion of a lawyer's clerk as a juror as a public scandal. Lawyers brought cases into court, and a lawyer's clerk knew who were likely to be jurors; he had the means of finding out what their views were on a case, and he could convey the information quietly to his friend at the table. It was therefore only right that lawyers' clerks should be excluded. If a lawyer's clerk sat on a jury, instead of viewing a case from the commercial or common-sense point of view, he would be more likely to give law to his *confrères* on the jury, and in all probability a good many of them would be influenced by him, although they knew a great deal more about commercial matters than he did. On the whole, it was a great deal better that lawyers' clerks should be excluded.

Amendment put and negated.

HON. F. McDONNELL moved the omission in subclause (ix).—"Managers and other officers of banks"—of the words "and other officers." He admitted, after hearing the speech of the Hon. Mr. Fahey, that there was a great deal more reason for not agreeing to the last amendment than there was in objecting to this. There were banks in Brisbane with fifty or sixty clerks, and he could not see why banks should be specially protected by exempting all their officers from service. Perhaps it might be right to exempt the manager, especially in a small town, where he had a very small staff; but he saw no reason for exempting bank clerks and not exempting the clerks in insurance and trustee companies, and other concerns which did business on somewhat the same lines as banks. He hoped the Attorney-General would accept the amendment.

HON. A. H. BARLOW: Speaking from practical experience, he would not be so disposed to oppose the amendment if tellers were exempted.

The ATTORNEY-GENERAL: The present Act exempts accountants and tellers.

HON. A. H. BARLOW: The danger of taking away the teller from a bank was that forgers might have a fine old time. It would not matter so much about accountants, as they did not have much to do with identifying signatures. A bank teller after a few years' experience became so expert that he was practically forger-proof. If the teller was taken away, and a raw hand put on the counter, it was quite possible that forgers would have a good time.

Hon. A. A. DAVEY: Haven't they generally got an understudy?

HON. A. H. BARLOW: Not in a country bank.

HON. P. MURPHY could see quite clearly that it would be an inconvenience to banks if their managers and staffs were liable to be summoned for jury service; but commercial houses were put to the same inconvenience. If the manager or leading man in a commercial house in Brisbane had a lawsuit, he had to attend the court, and every clerk in his office was liable to be summoned to act on the jury. It would be very inconvenient, but, in the interests of law and order and good government, they had to put up with that inconvenience and suffer that loss; and he could not see why a bank should not be treated in exactly the same way. There was, perhaps, something in the argument of the Hon. Mr. Barlow that the teller of a bank should be exempt from service, as he was an expert in signatures on cheques, and there might be great danger of fraud in a bank where a great number of cheques passed through every day, if he were liable to be summoned. But why the manager or the other officers of the bank should be exempted whilst a similar exemption was not made in the case of commercial houses was a mystery to him. He could not see why financial institutions should be favoured and why commercial institutions were, he might say, victimised. One institution was saved the inconvenience and the loss—and it was a loss—of its officers having to serve on the jury. There was a whole army of ledger-keepers in the banks, and there was no reason why they should be exempt in a matter of that kind. If the cashier in a commercial house were

absent for a day or two, or perhaps a week, serving on a jury, it would cause great inconvenience, as cheques were always referred to him just the same as to the teller in a bank. It was a loss and inconvenience to every man who had to attend on a jury, but why one set of people should be excused and not another was what he could not understand. He did not see why the officers, or even the managers, of banks should be excluded. They were very intelligent men, and they not only had a good knowledge of financial and banking matters, but from the very nature of their business they had a grasp of all commercial matters, and it would be of great advantage to have such men serving on the jury.

HON. A. J. THYNNE: Bankers were not to be looked upon as a class by themselves, except so far as they were servants of commerce. They were there to do the work of commercial houses cheaply, and that was one of the reasons why they were exempted. There was another reason why bankers should be excluded. They were always under a pledge of secrecy regarding the affairs of the bank and its customers, and one could never tell when litigation might be in the interests of the bank. They were not allowed to know any more from a bank official than they were allowed to know from a solicitor what his client's interests might be.

HON. A. A. DAVEY: That seemed to him to be a bit of special pleading. The hon. member stated that banks occupied a unique position in looking after the interests of the community. To his mind, there was nothing in the argument at all, because a man who performed a use to the community, whether he be in the commercial, professional, or any other branch of work, was working for the benefit of the community; and, although the banks were an important branch of the commercial life of the community, they were a subsidiary branch when they came down to bedrock. They simply conducted the financial part or assisted the public to conduct the financial part of their business. They were not doing the business—they were not performing an actual use to the community. If he made a shirt for a man who had no shirt to wear, he was performing a distinct use for that man, and if he made a loaf of bread for a man who had nothing to eat, he was performing a use. He was prepared to admit that the banks performed a very important use to the community, but so did the commercial, manufacturing, and distributing houses. He could quite understand why the manager of a bank should be exempted, but he could not see any grounds for the exemption of all the officers of a bank, and he objected to the inference that the banking community or the legal community conferred any special blessing or benefit upon the community. The people who performed the higher uses were the people who were most valuable to the community, and the commercial interests of the State should receive more liberal consideration than they were getting under that Bill.

HON. W. V. BROWN: After several years' experience in banking, he could assure hon. members that it would cause a great deal of serious inconvenience if bank clerks were liable to serve on juries. The bank manager was responsible for very large sums of money, and his business required the very closest

*[Hon. W. V. Brown.]*

and undivided attention throughout the day, and the accountant had almost equal responsibilities. The Hon. Mr. Barlow had referred to the position of the teller in a bank, and anyone who had any knowledge of banking knew that the ledger-keepers had equal responsibility with regard to cheques. The ledger-keepers had constantly throughout the day to scrutinise signatures and compare them. The teller, from constant practice, became conversant with the signatures, but the ledger-keeper has equal responsibilities, and it would be extremely inconvenient if they were called away. If the teller were called away, he had to hand over his cash to the man taking his place, and that necessitated counting it first. It was a duty that he (Mr. Brown) avoided whenever he could, as sometimes it took hours to count the cash. It would be a very serious thing to make responsible officers of a bank liable to serve on a jury; and, if they omitted the responsible officers, he questioned very much whether the remaining officers would be very desirable. He could assure hon. members that a bank manager could not carry on his business without being constantly in his office. It was quite different from other businesses. If he (Mr. Brown) wanted to get away from his business he could close his door and put up a notice, "Back in half an hour," and it would not matter.

HON. A. A. DAVEY: You are very fortunate.

HON. W. V. BROWN thought most men could go out if they liked. He would like to point out also that in a great many branch banks there were only two officers; and, if both those officers were liable to serve on the jury, what would be the result? It was a standing rule in most banks that there must always be two officers present at any time, as there were large sums of money in branch banks—sometimes as much as £10,000 or £15,000.

HON. B. FAHEY said there were two classes in the community who were in constant use by the public—Customs officers and the staffs of banks. He looked upon a bank as a commercial dépôt. They had about eight banks in Brisbane, and the whole of the commercial transactions of this city were conducted by those banks. The Hon. Mr. Murphy talked about the inconvenience of commercial men being called to serve on juries. Then why, in the name of Providence, multiply those inconveniences? It was well known to hon. members that the public generally were incommoded by serving on juries, and much more so a bank manager. In all probability there might be fifty or sixty or one hundred people wishing to interview him during the day on very important matters pertaining to their business, and it was not so much the bank that would be incommoded as the commercial community. The ledger-keeper, according to an hon. member who had spent a good deal of time in a banking institution, was one of the most important persons in an institution of that kind in the way of verifying signatures to cheques and bills. He came next to the accountant and teller. Therefore, it was in the interests of all the commercial men of the State that these men should be exempted. The whole of the commercial transactions in this important city and in the whole State of Queensland were transacted in the seven or eight banks

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that carry on business in Queensland, and if hon. members closed their doors, as they would practically do by including their officers as jurors, whose toes would be trodden on but those of the commercial community? He thought that the bank staffs and Customs staff of any country should be exempt from service on juries.

Question—That the words proposed to be omitted (*Hon. F. McDonnell's amendment*) stand part of the clause—put; and the Committee divided:—

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Hon. A. H. Barlow	Hon. F. H. Hart
„ F. T. Brentnall	„ M. Jensen
„ W. V. Brown	„ C. F. Marles
„ A. J. Carter	„ A. North
„ J. Cowlishaw	„ P. O'Sullivan
„ B. Fahey	„ A. J. Thynne

Writer: Hon. W. V. Brown.

NOT-CONTENTS, 4.

Hon. T. C. Beirne	Hon. F. McDonnell
„ A. A. Davey	„ P. Murphy

Teller: Hon. T. C. Beirne.

Resolved in the affirmative.

Clause put and passed.

The Council resumed. The CHAIRMAN reported the Bill with amendments. The report was adopted; and the third reading was made an Order of the Day for to-morrow.

APPROPRIATION BILL No. 2.

FIRST READING.

On the motion of HON. A. H. BARLOW, this Bill, received from the Assembly, was read a first time.

SECOND READING.

HON. A. H. BARLOW: I beg to move that the Bill be now read a second time. It provides for an appropriation of £500,000 from the consolidated revenue fund, £40,000 from trust and special funds, and £300,000 from the loan fund account. Of course, payments will be made on the basis of the existing Estimates until the final Appropriation Bill is passed.

Question put and passed.

COMMITTEE AND THIRD READING.

The Bill was put through these stages without debate or amendment, and passed, and was ordered to be returned to the Assembly, by message in the usual form.

ADJOURNMENT.

HON. A. H. BARLOW: I beg to move that the Council do now adjourn. My hon. friend, Mr. Thynne, wishes to go on with the Macansh Estate Bill to-morrow, and then we shall consider the Commercial Causes Bill in Committee, and I trust hon. members will form a quorum.

Question put and passed.

The Council adjourned at eighteen minutes to 6 o'clock.