Queensland

Parliamentary Debates
[Hansard]

Legislative Council

TUESDAY, 18 OCTOBER 1921

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LEGISLATIVE COUNCIL.

TUESDAY, 18 OCTOBER, 1921.

The PRESIDING CHAIRMAN (Hon. T. Nevitt) took the chair at 4.30 p.m.

BANANA INDUSTRY PRESERVATION BILL; POLICE ACTS AMENDMENT BILL.

ASSENT.

The PRESIDING CHAIRMAN announced the receipt from the Deputy Governor of messages conveying His Excellency's assent to these Bills.

ACTING CHAIRMAN OF COMMITTEES.

APPOINTMENT OF HON. L. McDONALD.

The SECRETARY FOR MINES (Hon. A. J. Jones): I desire the permission of the Council to move a motion without notice. The motion is that during the absence of the President the Hon. Lewis McDonald be appointed Acting Chairman of Committees.

The PRESIDING CHAIRMAN: Is it the pleasure of the Council that the hon. gentleman be allowed to move the motion without notice?

HONOURABLE GENTLEMEN: Hear, hear!

The SECRETARY FOR MINES: I beg to move—

> "That during the continued absence of the President the Hon. Lewis McDonald be appointed to act as Chairman of Committees of this Council."

HON. P. J. LEAHY: I would like a little information as to what this means, as the motion is not as clear as the Minister is capable of putting it. Does it mean during the present absence of the President, and until such time as he resumes his position, that the Hon. Mr. McDonald will act as Chairman of Committees, or does it mean that whenever the Chairman is absent the Hon. Mr. McDonald will take his place?

The SECRETARY FOR MINES: During the present absence of the President.

HON. A. G. C. HAWTHORN: Is it worth while making an appointment of this kind, as presumably we shall reach the end of the session on Friday week?

The SECRETARY FOR MINES: It is a matter of convenience.

HON. A. G. C. HAWTHORN: Is it worth while making an appointment of this kind to give the Hon. Mr. McDonald a few pounds only? Do I understand he is not being paid? I would like information on that point. Is it a salaried appointment?

The SECRETARY FOR MINES: No. In justice to the Hon. Mr. McDonald, I can assure hon. gentlemen that there is no salary attached to the appointment. The motion is moved simply to meet the convenience of the Council. The Hon. Mr. McDonald is at present a member of the panel of Temporary Chairmen, and, if we appoint him as Acting Chairman, he will know that it is necessary for him to be here when the Council goes into Committee on any Bill. This will be more convenient than the Presiding Chairman hav-

ing to call upon the Hon. Mr. McDonald on every occasion that the Presiding Chairman leaves the chair. The Hon. Mr. McDonald will be Acting Chairman during the absence of the President.

Question put and passed.

JUDGES' RETIREMENT BILL.

THIRD READING.

The SECRETARY FOR MINES: I beg to move—

"That the Bill be now read a third time."

HON. A. G. C. HAWTHORN: It is due to us to enter a protest against this Bill going through the Chamber. It is undoubtedly, as has already been pointed out, a gross repudiation of a contract made in former years, a contract under which three judges of the Supreme Court are at present working. They have all done their best to carry out their part of the contract and have always been ready to dispense justice, and, to the best of their ability, to carry out their duties. It is a very unpleasant position to place these gentlemen in, and a still more unpleasant position to place the State of Queensland in.

The SECRETARY FOR MINES: I suggest that you discuss that matter on the next Bill.

HON. A. G. C. HAWTHORN: I do not care for your suggestion. There is no doubt this Bill means repudiation by the State of Queensland of a contract which was entered into in all good faith by these gentlemen. It is part and parcel of the policy of the Government to repudiate and confiscate whenever it suits them. If a contract is worth carrying out from their point of view, they will carry it out; but, if it is not, and they are going to gain in any way, they will break a contract without the slightest hesitation.

Hon. R. SUMNER: What is the legal remedy?

HON. A. G. C. HAWTHORN: A legal remedy, unfortunately, is not given to these judges. Parliament undoubtedly can pass any Act it likes and upset any contract it likes. Parliament can repeal any Act of Parliament passed by previous Governments, but it is not always judicious to do so, and it certainly is not wise for any Government to repudiate contracts made in such solemn form as these have been made. It is an unfortunate position from that point of view that the Bill has been brought in. What is probably more important and still more difficult to justify, is the doing away of the rights of the people; the confidence that the people have in the judiciary; the knowledge that the Supreme Court and all other courts are founded on justice; that every man, no matter how poor he is, can rely with confidence on the decisions of the judges. There is no doubt that in future they must lose a very great deal of that confidence. The people of Queensland in future will lose confidence in the courts, as they will know that the judges are liable to be removed at any time at the will of the Government, that they have not got the position they hold at the present time, that the judges will have no pension, and that they have nothing to look forward to in the future. If they are disabled in any way or unable to carry on their work after a number of years, they will be thrown on the scrapheap without a pension. The provision for a pension certainly has always been a very great inducement to a leading barrister to take up a judgeship.

Hon. R. J. CARROLL: I bet they will rush it, all the same.

HON. A. G. C. HAWTHORN: I say that the best men will not take it, because it is not good enough to take £2,000 a year without a pension. They may be on the bench ten or fifteen years, and then be thrown out without a pension. Any leading barrister could make far more than that. We cannot look, therefore, for the best judges in future. Our present judges were induced to take up their positions because of the knowledge that they would get £1,200 a year pension.

Hon. R. J. CARROLL: Mr. Justice Real said it was not financial consideration that would induce him to take it up.

HON. A. G. C. HAWTHORN: That is ridiculous. Will anyone say that——

An HONOURABLE MEMBER: Judge Real is failing.

HON. A. G. C. HAWTHORN: He is so far from failing that if he goes back to the bar I am sure he will make a bigger salary at the bar. I do not know any solicitor who would not rush Judge Real for an opinion on any very intricate matter. I think it is a very great pity that the Government should take this action. The judges themselves will not have the confidence in their positions which their independence now gives them. They will know that if the Government is not satisfied with the way they are carrying out their duties the Government will alter the Act, so as probably to bring down the age to sixty-five years. Is a man likely to give his best services under such a condition as that?

Hon. R. J. CARROLL: In America they make a limit of forty years.

Hon. P. J. LEAHY: Some men are too old at twenty.

HON. A. G. C. HAWTHORN: I repeat that the people will not have confidence in the judiciary.

HON. R. BEDFORD: There has been too much talk of repudiation in this matter, and it is only a repetition generally of statements put by the Opposition to every Bill introduced by the Government. Also too much has been made of the alleged miracle of ordinary practitioners leaving their practice and suddenly becoming more than man and a little less than God. We are told that men on the bench, no matter how imperfect their knowledge—because we have seen men in Australia elevated to the bench, to the position of Chief Justice, and whose decisions have cost more for reversal than any of those in similar positions before. I refer to the notorious instance of the late Chief Justice Madden, of Victoria, who was wrong much more often than he was right. We are asked to believe that an advocate dealing in all the seamy ways of life, helping clients attempt to circumvent the law will be suddenly shorn——

The PRESIDING CHAIRMAN: I am sorry to disturb the hon. gentleman. The question is that the Bill be now read a third time. You must give reasons why or why not it should be read a third time.

HON. R. BEDFORD: I am covering the reasons given as to why it should not be read a third time. The reasons given by the Hon. Mr. Hawthorn and earlier speakers on the second reading may be summed up

in two sentences—firstly, that the Bill is repudiation; and secondly, that the making of a retirement age will tend to open the position only to men of lower calibre than the men who now occupy these positions. I was about to say that we had examples of men having been appointed for political purposes who cost the country immeasurably more in the reversal of their decisions than the whole of the judiciary of their own or some other State had ever done. And we are asked to believe that the mere fact of offering a man a pension suddenly takes him away from political prejudices and partisanship. The general ethics of the legal profession are not such as we would tell here. Every man who has anything to do with advocates, especially on the criminal side, will know that when it is put to them as to why they should defend men against their consciences, so that a miscarriage of justice may result, they will reply that they did not know that their client was guilty, and that they were expected to do the best they could for their client. Now we are asked to believe that the appointment of a man to the judiciary makes him something very different from that, and that no future legislation should apply to him. If there was one man who in the history of the Australian courts could be said to be absolutely non-partisan, it was Mr. Justice Higginbotham. Yet this man was charged in the 1890 strike that he made a presentation to the strike funds. The very people—the very class—who say that a judge should be beyond temptation, and that he should be free from any tendency to partisanship, we find saying that Mr. Justice Higginbotham should be taken from the bench and put up against a wall and shot. There is no such thing as repudiation in these matters. We are justified in wiping out the foolishness of the past. All amending legislation is repudiatory to that extent. I would not have spoken to-day, but a legal body, called the Chamber of Commerce, has taken upon itself to pass resolutions condemning the Government for repudiatory legislation, of which this Bill is said to be part. These people might be reminded that if there is an enemy of the country it is the man who, for political purposes, accuses a Government of that country of such actions. Despite the remarks last week as to pilfering by Ministers, everybody knows that there has been no cleaner or more single-hearted Government in power than this; no Government which has benefited its own members less than this Government. That is why I throw back the general talk of repudiation. We saw how far the talk of repudiation affected the financial credit of the State before; but it affected a market in which I think there was not much money to be got, and the American people who really had the money were willing to lend it on the general resources of the country.

Hon. A. G. C. HAWTHORN: At a high rate.

HON. R. BEDFORD: At a much lower rate than you would like to see. What does the Governor of the Commonwealth Bank say?

The PRESIDING CHAIRMAN: I would point out again to the hon. gentleman that what he is saying has nothing to do with the question before the Council. The question is whether the Bill be now read a third time or not.

HON. R. BEDFORD: I have, Sir, a slight suspicion that what you say is really the subject upon which I am trying to address myself, in my own way. Just as every cripple has his own way of walking, so I have my own way of putting my own ideas and making my own analogies and parallels. I have nothing more to say than this—that the idea that the best men will not take up these positions is not true. Most of the legal members of this Council would be first in the crush if they thought they had a chance of being selected. And, if we have cases of advocates giving up £40,000 a year to take £5,000 as a judge, we know there is also this parallel—that one man before appointing himself to the Chief Justiceship thoughtfully increased his own salary as a judge before he left politics. So that one parallel counterbalances the other. If a man gives up £40,000 for £5,000 a year, certainly he gets something that may balance the ledger in the way of prestige or something else, and no man should be allowed to remain on the judiciary after he is seventy.

Hon. A. G. C. HAWTHORN: That is right enough for future judges.

HON. R. BEDFORD: They are being provided for under this Bill, and the present judges get their pensions, so that all this talk of repudiation and the statement that we will only get a poorer class of judge in future is just about worthy of the attitude of the Opposition to the present Government.

HON. E. W. H. FOWLES: It might well be suggested that the Bill be read a first time by some hon. gentlemen, because I feel sure that if they did so they would find out the objectionable features in it.

Hon. J. S. HANLON: Why throw these insults at members?

HON. E. W. H. FOWLES: I am not throwing insults or bouquets at anyone. I am giving hon. members credit that, if they read the Bill through and knew all its bearings, they would see that there is a repudiatory principle in it. With the good example of New Zealand before us, why does the Government introduce a Bill like this, when they could arrange the matter without any public dishonour? But the Government seem to have a fatal facility for taking the wrong road. All Queensland knows that this Bill is a repudiation. Suddenly, the Government brings in a Bill in which it declares that certain judges shall retire. Even then it would have been repudiation.

[5 p.m.] This Bill says abolish three judges. It seems to be the whole gospel of the present Government to abolish. Abolish! Abolish this Council! Abolish capital! Abolish employment! Abolish everything! I think, at this stage, it might be properly recommended to this Government that they accept an amendment. The Bill has got some good features; it has been discussed thoroughly, and it has got a feature most pernicious that is offering a precedent to all succeeding Governments. They will say that is what an honest, democratic party did—broke their word to three judges. No one, excepting for party politics, could support such a Bill. Who is asking for such a Bill? Was this Bill brought before a meeting of the party? Absolute silence. They did not know that the Bill was being brought in. Who drafted the provisions of the Bill—the Attorney-General? Did any of the hon. gentlemen opposite have a hand in it at all? Who suggested it? Was there a party meeting? Was there a vote taken on it? What was the result of the vote?

Hon. W. J. RIORDAN: We will take a vote on it presently.

HON. E. W. H. FOWLES: The only reason for passing the Bill is that the Government have a temporary majority in both Houses. As a matter of fact, every hon. gentleman scouts the idea of repudiation.

Hon. P. J. LEAHY: I do not know so much about that.

HON. E. W. H. FOWLES: I take that to be the attitude of any honest Labour man, and that being so, they should even, at this stage, have the courage of their opinions and say, "cut out that objectionable clause." This is not a plank of the Labour platform at all. This is part of a policy which was enunciated in this House. In "Hansard," 1919-1920, volume 134, page 2511, the representative of the Government in this House said, "I would only employ those in sympathy with the policy of the Government."

Hon. W. J. RIORDAN: That is not a bad policy.

HON. E. W. H. FOWLES: "We will only employ those in sympathy with the policy of the Government." That statement was probably inspired. Appoint your own judges, who will give your own verdicts. The judges' whole position rests upon impartiality and independence.

Hon. J. S. HANLON: Upon the interpretation of the law as it stands and as it is amended.

HON. E. W. H. FOWLES: That is to say, the Government only appoints judges who are in sympathy with its policy.

Hon. J. S. HANLON: What about the "Eastern" and Mooraberrie cases?

HON. E. W. H. FOWLES: Oh, is that the reason. Is there no room for conscience in the Government. Must these judges go according to the dictates of policy. Simply because a judge of the Supreme Court made a verdict against the Government he must be put on the scrapheap. That is the reason which has come out by interjection. What would be the position of the country if a man's mouth were closed unless he shouted "hooray for the Government."

The SECRETARY FOR MINES: When I made that statement I was only dealing with public servants.

HON. E. W. H. FOWLES: It is the general policy of the Government, which is merely to employ their own.

Hon. R. BEDFORD: You know that is untrue. You do not believe it.

HON. E. W. H. FOWLES: I am quoting only. In his weary hours the hon. gentleman might turn to "Hansard."

Hon. R. BEDFORD: "Hansard!" Cyanide is good enough for me!

HON. E. W. H. FOWLES: Really, the public is to know that if a judge goes against the Government his seventy years will be cut down to sixty-five years or even to sixty years: that he is merely there to do as he is told. They will only employ those in sympathy with the policy of the Government.

Hon. J. S. HANLON: Is that your straight and honest opinion?

HON. E. W. H. FOWLES: I am only quoting; this is not my opinion at all. I am merely quoting from a statement by the representative of the Government, speaking as a representative of the Government in this Chamber. The time will come when there will be no room for anybody on this planet unless he is a follower of the present Government. All Queensland knows that this is one of the Bills which have to be dragooned through Parliament—in spite of the Opposition—by a minority Government, and without the slightest shadow of any public claim or demand for any such legislation. The country is crying out for proper administration and decent Government. Even business men—according to the newspapers—are beginning to wake up and ask where we are drifting to in this beautiful State.

Hon. H. G. MCPHAIL: The business people were quite relieved when they knew the Government had got the £2,500,000 loan in America.

HON. E. W. H. FOWLES: As a matter of fact, we shall have to pay a large sum a year in interest, and not one pennyworth goes into industry or the workers' pockets.

Hon. R. BEDFORD: Has this anything to do with the third reading of the Bill?

HON. E. W. H. FOWLES: I was combating arguments by Mr. Bedford.

Hon. W. J. RIORDAN: Do you suggest we should not pay the interest?

HON. E. W. H. FOWLES: Some of the hon. gentleman's party and comrades suggested that. That is the pitiable state into which the Government have dragged the country—that we shall have to sell the furniture to pay the rates. As a matter of fact, even at this late stage, I would suggest that the Government should see the wisdom of making the Bill a decent Bill. This Bill, if it goes on to the statute-book, will be a disgrace to Parliament. The Government should take this opportunity of remedying a gross injustice.

HON. R. SUMNER: I do not think that the discussion is in order, but I was not here on the Committee stage of the Bill, and, as hon. gentlemen have been allowed full time, I think I should be allowed the same. This reform was forecast before the last election.

Hon. E. W. H. FOWLES: Under what proposed reform was it to be dealt with?

HON. R. SUMNER: The amendment of the Supreme Court Act.

Hon. E. W. H. FOWLES: The judges were appointed under the Constitution Act.

HON. R. SUMNER: Previous to the last election the Government went to the country on an amendment to the Supreme Court Act.

Hon. P. J. LEAHY: And 20,000 of a majority were against them.

HON. R. SUMNER: In the discussion in this Chamber on the amendment of the Supreme Court Act, we had a speech by the Hon. E. J. Stevens, and I think no member of this House will say that he was a Labour man. Mr. Stevens was speaking from his experience of a lifetime as a politician and a newspaper man. I want to quote that. Speaking on the Address in Reply, page 304, 1918 "Hansard," he said—

> "The Supreme Court Acts Amendment Bill is something new to me. I understand it deals with the judges, which is rather a delicate subject to deal with, and one that most hon. members have flinched from in the past. I have expressed my opinion regarding some judges in the past; I am not going to

enter on it at length now, but we are here to say what we think. Fortunately, we are protected by parliamentary privilege from a libel action, and that should enable a man to speak out who might feel nervous about saying what he would like to say under other circumstances. I have had an experience in politics of something over forty years, and, although not a particularly noisy member, I have been a fairly active one during that time, and I have seen a great many judges come and go. Generally speaking, we should be satisfied with the judges we have at the present time; but in the past we have had some very indifferent specimens. I go further, and say we have had some bad ones, and what has happened in the past may happen again in the future. If a man is not fit to be a judge, he is not likely to improve with old age, and a time limit should therefore be placed on the age of judges. A judge is in no way different from any other man. He is a human being, and he has the same attributes as other human beings. He has the same passions and the same feelings, and, although his training may lead him to have a more judicial mind, if he is an excitable man—and some judges are excitable—he is apt to forget what his training should have taught him and give relief to the feelings which actuate him. We have seen judges on the bench here, if they were not actually drunk—that is to say, they could not sit up—they were in such a condition that they had no right to have a man's life or property placed in their hands. We have known cases of judges who had to be douched with cold water before they could take their seats on the bench.

"Hon. G. S. Curtis: What! in Queensland?

"Hon. E. J. STEVENS: In Queensland. We have seen judges go to sleep on the bench and wake up and deal with a case. We have known judges—I am using the plural so that it cannot be said that I am indicating certain individuals—I go that far to cover them up—we have known judges brought from the lowest haunts in Brisbane, and drugged and soused with cold water to enable them to sit on the bench and deal with important cases. What has happened in the past may happen in the future, and we should take what precautions are necessary to prevent a man of that sort from having a seat on the bench beyond a certain age limit. I do not know what is in the Bill, but on general principles I am thoroughly in accord with it."

That is the speech of an hon. member of this Chamber, and no one can accuse the Hon. E. J. Stevens of uttering words that he did not entirely believe in.

Hon. A. G. C. HAWTHORN: He did not believe in repudiation.

HON. R. SUMNER: He says it is time that an age limit was placed on the position of judges. There is no doubt that the legal profession, if they speak the truth, think that the time has come when certain judges should be removed from the bench. When a case comes on in the Supreme Court, what happens? They know it is usual for members of the legal profession to ask, "Who is the judge?" Why? Because they know that certain judges are not fit to try the case. There is no injustice being done by this Bill, and there is no breach of contract. When the Act was passed many years ago, and the judges were appointed, the very fact that provision was made that they could retire after fifteen years' service showed that the framers of that Act recognised that any man, after being fifteen years in the position, had had a fair innings and should retire. The judges who are to be retired under this Bill have been on the bench over thirty years, and they will be retired on a pension of £25 a week. Surely no one can say that the Government are doing an injustice to them under these conditions! What commercial man in Queensland to-day, if you offered him £1,000 per annum for the rest of his life to manage a business, would not take it? I would point out also that men who do ordinary work are retired at forty. It is said in America to-day that even a tradesman cannot get work when he is over forty years of age, so great is the stress of competition. Hon. gentlemen talk about repudiation. Why should there be unemployment in Queensland to-day? Is that not repudiation? I support this Bill in its entirety, and if there is one just Bill that the Government have brought in, it is this one.

HON. P. J. LEAHY: I did not finish my remarks on this Bill the other night.

An HONOURABLE MEMBER: You are not a lawyer.

HON. P. J. LEAHY: If I am not a lawyer, I have had considerable experience in journalism, and a man who has had a long experience in journalism gains a great deal of information. From my knowledge of journalism, I would be justified in saying that the average journalist is a much more capable man, all round, than the average member of Parliament. I do not think I would have got up this afternoon but for the speech just delivered by the Hon. Mr. Sumner. That hon. gentleman quoted the opinions of the Hon. E. J. Stevens. Even if the Hon. Mr. Stevens's words conveyed the meaning that the Hon. Mr. Sumner wanted to put into them, it would not matter very much, because, after all, they are only the opinions of one man; but, as a matter of fact, not one word uttered by the Hon. Mr. Stevens, and quoted by the Hon. Mr. Sumner, was in favour of the clause in this Bill which retires existing judges. The Hon. Mr. Stevens believed in a system of retiring future judges at seventy years. If this Bill merely provided that the age limit of seventy years should apply to future judges, though we might condemn it on other grounds, no member on this side of the Council would say it contained anything in the nature of repudiation. There are objections to the appointment of future judges with a provision for a retiring age; but, whatever those objections may be, repudiation would not be one of them. Nothing said by the Hon. Mr. Stevens justified repudiation, and nothing said by the Hon. Mr. Sumner justified repudiation.

Hon. R. SUMNER: He said in 1918 that he would support the Bill.

HON. P. J. LEAHY: He said he would support a Bill that would fix an age limit of seventy years for future judges. If the

judges do anything wrong, there is a provision in the existing law by which they can be removed. Supposing there is a Supreme Court bench of five, and assume, for the sake of argument, that one or two of those judges were not all they might be—assume they did something that would justify their removal—then it would be an easy matter for the Government to get rid of them. Assuming for the moment that some particular member of the present Supreme Court bench ought to be retired, is that any reason why other members in full possession of their intellectual faculties should also be retired? Surely there is no justice in that! The plain fact of the matter is that this provision was in the nature of a contract. These men, under the provisions of the Constitution Act, took their positions for life. It was a solemn contract with the condition that if they were not of good behaviour they could be removed on a motion by the two Houses of Parliament. I have no objection to the two Houses of Parliament removing any judge. The Constitution Act contains certain conditions, one of which is that the judges get their positions for life, and if, without consulting these judges in any way, we want to alter the terms of the contract, if that is not repudiation, what is it? Suppose a publisher offered the Hon. Mr. Bedford a salary of a couple of thousand a year for life, and supposing that publisher afterwards wanted to determine that contract before the expiration of that period, does anyone imagine that the Hon. Mr. Bedford would willingly acquiesce in it? He would call that repudiation. He would appeal to a court of law, and the court of law would uphold the contract; but, unfortunately, no court of law can uphold this, because Parliament, legally, is the supreme power. Parliament can do anything it likes, no matter how unjust it may be, and there is no redress. No one questions the power of Parliament to pass this Bill; but Parliament should have a sense of justice, and there is no sense of justice in this Bill. It will be interesting to quote a portion of the remarks of Mr. Justice Lukin at Rockhampton. So far as I know, these remarks have not been quoted in this Council. Mr. Justice Lukin is not one of the judges affected by this Bill, because he is considerably below the age of seventy; but if he were seventy he would be affected by the Bill, and therefore it will be interesting to hear what he has to say in regard to it. He says—

> "I was admitted to the bar in 1890, and continuously practised my profession as a barrister in Queensland for twenty years. I gained considerable experience and acquired a very lucrative practice in all the courts of the State. My income amounted to more than £4,000 per annum, with every prospect of an increase. In July, 1910, the Government then in power offered me a position as Central judge of the Supreme Court of Queensland at a salary of £2,000 per annum. After giving the matter due consideration, and after reflecting on the fact that I must sacrifice at least £2,000 per annum by taking it, but that, according to the tradition of the bar, it was my duty, notwithstanding such sacrifice, to accept the honour if I could afford to do so, I signified my acceptance. My commission conferred on me the office for life—that is to say, 'during good behaviour, together with all rights, privileges, and advantages thereunto belonging and appertaining.' I think I may fairly say that my appointment met with congratulations and approval from all sections of the community, possibly because it recognised that my appointment was not due to any political influences, and had resulted from the prominent position I had by my individual and unaided efforts attained at the bar, and possibly from the belief in my valuable experience in all branches of the law, and in what my commission expresses as 'the trust and confidence in my loyalty, learning, integrity, and ability.'"

[5.30 p.m.]

> "I think I can fairly claim that since my appointment I have endeavoured to perform my judicial duty to the community energetically, fearlessly, honourably, and to the best of my ability, courting no man's favour, and fearing no man's frown.
>
> "Now, after eleven years' of such service, I find myself suddenly confronted with proposed legislation that threatens to violate my statutory rights, the terms of my contract, and the independence of my position as judge. I am deprived of the rights conferred on me by statute in many ways. I mention only some of them. I am deprived of my statutory rights to office for life. I must resign, or I am retired, on arriving at the age of seventy, when I may be able to continue the performance of my judicial duties as efficiently and as competently as at any time in my judicial career, and when, under the terms of my original agreement, I would have been entitled to continue. I am deprived of my absolute right to occupy a seat on the Full Court bench."

And then he refers to a certain portion of the Judiciary Bill which probably I would be out of order in quoting here. Then he deals again with the present Bill by making reference to Mr. Justice Real. He says—

> "I think I am also justified in saying something in reference to the effect of this proposed legislation on the position of my brother judges, in particular, in reference to its effect on my brother Real, with whose history and circumstances I am fully acquainted. Mr. Justice Real was born in Ireland. He came to this country as a child, was educated, worked as a railway employee, studied, became a member of the bar, practised his profession, and accepted judicial office in Queensland. As a member of the bar he displayed great ability and learning, was much sought after by clients of all sections of the community, and attained a position which brought him in an income of over £5,000 per annum. On the death of Mr. Justice Mein, he was offered the vacancy thereby created in Brisbane. I remember the late Sir Samuel Griffith saying he did not think that Mr. Justice Real, with a large income, would accept the position. Mr. Justice Real, however, bowed to what he considered his duty, and accepted the proffered commission. His appointment was not a political one, but was brought about by well-established and well-recog-

nised merit. For thirty-one years he occupied the position of puisne judge of the Supreme Court, receiving a salary of £2,000 per annum, when he could have earned £5,000 a year at the bar. He brought on to the bench with him invaluable experience gained in his practice. He has performed his judicial duties through his whole judicial career with great sincerity, ability, and impartiality. His keen analytical mind, his wonderful memory, his marvellous capacity of unravelling complicated facts, his wonderful skill in discovering and ascertaining the truth, and his profound knowledge of law in all its branches, have made him a great as well as an upright judge. He is regarded by the profession as a worthy judicial associate to and the equal of the late Sir Samuel Griffith. During the period these two great men have occupied seats together on our Supreme Court bench, at a time when our Supreme Court Bench was second to none in Australia, and he still retains the very serviceable attributes I have referred to, improved if anything by his still greater experience. I can say that in my honest opinion he cannot to-day be replaced by any equal in this State. Since he is still competent to continue his valuable work, and because his great financial sacrifice in answering the call to the bench, and of his valuable judicial service to the State, I think the action the representatives of the community propose to take in repudiating his contract, and flinging him precipitately from office, is unjust and cruel in the extreme, and is sacrificing a valuable judicial asset for no sensible gain and for no sound reason whatever. Does the community think that this treatment is a fitting expression of gratitude for, and a fitting conclusion to, the long and loyal services of a great and upright judge? I do not propose at this time to say anything about the Supreme Court Bill or the Magistrates Bill, except to say that it is to be regretted that it was not thought advisable to secure the assistance of judges by submitting the Bills, so far as they deal with legal reforms, for consideration by the judges, and for their report thereon."

Mr. Justice Lukin is a man whose opinions are worth as much as the whole of the hon. gentlemen sitting on the Government bench here. I have quoted this because I do not think it has been read before, and I thought it was fitting that this true and well-deserved tribute to Mr. Justice Real should appear in "Hansard." The Hon. Mr. Carroll and other hon. members here know absolutely nothing of law or of the reforms of law. They make random statements. In his own opinion, no doubt, Mr. Carroll's ideas are worth something, but not on judicial matters. I would not say that on ordinary political matters his opinion is not worth something.

Hon. R. BEDFORD: What are yours worth?

HON. P. J. LEAHY: I do not think my opinion on legal matters is worth a great deal, and that is why I read the opinion of Mr. Justice Lukin.

Hon. R. BEDFORD: The Chief Justice has been treated most kindly. Nobody has told the truth about him.

HON. P. J. LEAHY: I think Mr. Justice Lukin's opinion is worth far more than Mr. Bedford's.

An HONOURABLE MEMBER: Mr. Justice Real did not put up a good case at the bar of the House.

HON. P. J. LEAHY: Mr. Justice Real was not speaking to the gallery, and was not indulging in oratorical display.

Hon. R. J. CARROLL: And he did not succeed, either.

HON. P. J. LEAHY: If he did not succeed in convincing hon. members it was not the fault of Mr. Justice Real himself, but want of capacity on the part of those who heard him. I heard Mr. Justice Real speak on that occasion.

Hon. W. J. DUNSTAN: It was an appeal to a British jury.

HON. P. J. LEAHY: I would prefer to appeal to a British jury than to a Labour party. I would say to the hon. gentleman that a man can get justice from a British jury, and I think he would prefer a British jury to a biased Parliament. I say it is impossible for any Labour hon. member to form an opinion by simply listening to a judge's remarks, because he is so accustomed to his own particular way of talking and thinking that he cannot understand anything in the way of moderation. I would appeal to hon. gentlemen to ask themselves whether they really do believe in the provisions of this Bill, or are they merely giving a party vote?

Hon. W. J. DUNSTAN: Are you not speaking as a party man?

HON. P. J. LEAHY: I was a party man when I was in the Legislative Assembly along with the Secretary for Mines. The only difference is that I have ceased to be one, but the Secretary for Mines remains as he was. Why do hon. members support this Bill? Their party has done something of which their judgment cannot approve. But nothing that any person can say will gain one single vote from that side of the Council. If hon. members were free to use their own judgment, I can see that the Bill would be rejected on its second reading. It reminds me of the lines—

> "Judgment has fled to brutish beasts
> and men have lost their reason."

Question put and passed.

On the motion of the SECRETARY FOR MINES, the Bill was passed, and ordered to be returned to the Assembly by message in the usual form.

REGULATION OF SUGAR CANE PRICES ACTS AMENDMENT BILL.

THIRD READING.

On the motion of the SECRETARY FOR MINES, this Bill was read a third time, passed, and ordered to be returned to the Assembly by message in the usual form.

LEGISLATIVE ASSEMBLY ACT AMENDMENT BILL.

DISCHARGE OF ORDER FOR THIRD READING.

The SECRETARY FOR MINES: I beg to move—That the Order of the Day for the third reading be discharged and that the Bill be recommitted for the reconsideration of clause 2.

Question put and passed.

RECOMMITTAL.

(Hon. L. McDonald, Acting Chairman, in the chair.)

On clause 2—"*Vacancy occurring in Assembly by resignation of member in order to contest Federal seat*"—

The SECRETARY FOR MINES moved, in line 15, that the word "thirty" be deleted, and the word "fourteen" be inserted in lieu thereof. He moved that amendment in order to bring the measure into conformity, as regarded the period of time, with section 70 of the Commonwealth Electoral Act. It was just as well that the State had its measures in conformity with Commonwealth law. There was nothing contentious about the matter. He believed he was right in saying that it was more a typographical error than an error in drafting the Bill.

HON. A. G. C. HAWTHORN: The amendment proved that the Council was necessary. They were acting as a revising Chamber, and it might have been a serious thing had the Bill gone through in its present form. It showed still further the necessity for having two Chambers, and certainly it showed the necessity for not having hasty legislation. The Minister spoke of it as being a typographical error; but there was not much typographical error in the difference between thirty and fourteen days. It only went to prove the necessity for a second Chamber, and the absolute necessity of having the time to go into these points. Had the Bill been rushed through, as the Minister wanted it the other day, they would not have had an opportunity of discovering that mistake.

HON. P. J. LEAHY: He suggested to the Minister that the Government should be careful. He had not the slightest doubt that that defect in the Bill was pointed out by some of his colleagues and that the Government took no notice. (Laughter.) They had had an opportunity of correcting this, and he hoped they would have an opportunity of correcting any other defects that might arise.

Amendment agreed to.

Clause, as amended, put and passed.

The Council resumed. The ACTING CHAIRMAN reported the Bill with an amendment. The report was adopted.

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

CONTRACTORS' AND WORKMEN'S LIEN ACT AMENDMENT BILL.

SECOND READING.

The SECRETARY FOR MINES: I desire to move the second reading of a Bill to amend the Contractors' and Workmen's Lien Act of 1906 in certain particulars. This is a small non-contentious measure, and I anticipate that it will have a speedy passage through this Council. Under the principal Act a contractor and his workmen are fully protected, by means of liens and charges, in respect of money or wages due to them; but, unfortunately, the subcontractor, who comes between, and is just as deserving of protection, does not receive that protection. It is proposed by this Bill to extend the Act so that the subcontractor shall enjoy the same protection as the workmen and contractors. That is the whole Bill, and I move—

> "That the Bill be now read a second time."

HON. A. G. C. HAWTHORN: This is one of the few Bills that does commend itself to hon. gentlemen. We certainly admit that we cannot see any repudiation in this Bill. The Bill is brought in with a good object, and will remedy a defect in the present Act. All of us, I suppose, have had experience of where the unfortunate man who has supplied work and material to a contractor, owing to the fact that he is not chief contractor with the person who is spending the money, has been done out of the value of his labour and material. Men put in that position have suffered very great hardships in the past, and I wonder the Government, seeing the defect in the Act, have not long before brought in a Bill of this kind.

HON. R. J. CARROLL: Why did your Government not amend it?

HON. A. G. C. HAWTHORN: In 1906 a similar Bill to this was introduced and passed in the Assembly and sent up to this Chamber, but for some reason it was thrown out by the Council. I am glad to see, although belated, that the Government have seen the advisability of introducing this Bill, and I shall certainly support the second reading.

Question put and passed.

COMMITTEE.

(Hon. L. McDonald, Acting Chairman, in the chair.)

Clauses 1 to 12, both inclusive, put and passed.

The Council resumed.

The ACTING CHAIRMAN reported the Bill without amendment. The report was adopted.

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

SUSPENSION OF STANDING RULES AND ORDERS.

The SECRETARY FOR MINES, in moving—

> "That so much of the Standing Rules and Orders be suspended for the remainder of the session as would otherwise prevent the passing of Bills through all their stages in one day"—

said: This is the usual motion introduced towards the end of the session, and it may be necessary to have the power to pass Bills through their various stages in one day.

HON. P. J. LEAHY: Can you give us a list of the Bills you wish to pass before the session closes?

The SECRETARY FOR MINES: It is difficult for me to do that, because, as hon. gentlemen know, we have to deal with Bills as they come here from the Assembly; but I might say that most of the Bills which it is proposed to pass this session have already been introduced either in this Council or in the Assembly.

HON. A. G. C. HAWTHORN: This is what we have been foreshadowing for the last three or four weeks. Week after week we have come here on Tuesday, and then adjourned till the following week, simply because there was no work for us to do, and we anticipated then that the Government, in accordance with their usual practice, would rush things through in a few days at the end of the session—expect this Council to give proper care to the Bills, and

rush them through as we are doing to-day. On the business-sheet to-day we have eight Bills, all of which we are supposed to give proper attention to and pass probably in quicker time than any Bills have ever been passed through before. I say, without hesitation, that that is not the proper way to legislate. It is rather interesting to find that a similar thing is happening in Great Britain at the present time. How can we be expected to review a Bill and rush it through all its stages in one day, especially when we have such scant information that the Minister treats us with? Under present circumstances, we have no time to prepare amendments.

The SECRETARY FOR MINES: I have spoken at greater length than any Minister in either House on many Bills.

HON. A. G. C. HAWTHORN: In this session particularly, and last session, too, the explanations of the Minister on the second reading of Bills were remarkable for their brevity. I find the same objection is made now in the House of Lords, and I have here the "Spectator" of 6th August, 1921, which has a very illuminating article. It is headed "The position of the House of Lords," and reads—

> "The Lords are suffering from the grievance which has become customary at this time of the year. The Government programme in the House of Commons has taken much longer than was anticipated—as, of course, it invariably does; and in the manner which has become familiar the Government have thrown a whole batch of Bills into the Upper House, saying, 'Pass them as quickly as possible, please!'"

[7.30 p.m.]

> "The Lords in these circumstances habitually protest, but do, more or less, what is required of them. The very conditions under which all this happens year after year help the Government; everybody is dead tired of parliamentary work; nobody wants an autumn session if it can be avoided. Therefore the Government cynically tell themselves that, though the Lords may protest, they will not really upset their arrangements for shooting grouse or adding another 'Royal' to their collections. Although there is comedy in the recurring situation, the treatment of the Lords is really a very serious matter. It has been demonstrated over and over again during the past few years, and particularly during the war, that we cannot get on without the House of Lords."

This is all emphasising what we have for some time been talking of—that a second Chamber is an absolute necessity. This is an article from one of the leading papers of Great Britain, and it emphasises that. It goes on to say—

> "A second Chamber is shown to be quite essential to a well-balanced Constitution. As though to make the irony of politics perfect, Liberal newspapers have been compelled on more occasions than we can now remember to admit that, under a dictatorial Prime Minister, the House of Lords alone has care for the liberties of the people."

Liberal newspapers have been compelled to admit that, under a dictatorial Prime Minister, they must have the House to protect the interests of the people. Until we were swamped, we were in the position spoken of here, and I have no hesitation in saying that.

Hon. R. J. CARROLL: Why not say reinforced?

HON. A. G. C. HAWTHORN: The Government used the word "deflation"; they do not say retrenchment. They do not care about the poor devils who are tipped out. They say they deflate them; but the poor devils are retrenched all the same. Their billet is gone and their income is gone.

Hon. W. J. RIORDAN: They could starve so far as you are concerned.

HON. A. G. C. HAWTHORN: But for those poor devils, perhaps, the hon. gentleman would starve. Under a dictatorial Government, we see the House of Lords has cared for the liberties of the people. For years we did that. We were the only safeguard of the people's interests in Queensland until we were swamped. This article goes on—

> "It was an unusual combination—the combination of Lord Crewe and Lord Salisbury—which set forth the case against the Government in the House of Lords on Tuesday. Lord Crewe, though his arguments were excellent in themselves, was, in the nature of things, not the best possible mover of the resolution, as he was exposed to the easy retort that he had been a ringleader of the movement which, by means of the Parliament Act, docked the Lords of much of their power. Lord Crewe demanded that no contentious measure except the Railways Bill shall be proceeded with before 2nd November. If the Lords are really to discuss all the very important Bills thoroughly, they cannot possibly do it in four weeks. Some of the Bills have been rushed through the House of Commons at racehorse speed, and if a careful examination of them is not made in the Lords they will not receive it at all. In the division the Government had their way, although a large minority voted with Lord Crewe. The figures were—for the motion, 79, and against, 104."

I have not the slightest doubt that hon. gentlemen do not like that. New Bills are going through the other House at more than racehorse speed. They are gagged through. The Chairman exercises his power, so that, although not a word is spoken by the Opposition, or even by members of the Government side, the Chairman says, "The clause has been fully debated."

Several HONOURABLE GENTLEMEN: That is not so.

Hon. W. J. RIORDAN: That is a lie.

HON. A. G. C. HAWTHORN: Mr. Presiding Chairman,—I would ask if the hon. gentleman is in order in saying, "That is a lie."

The PRESIDING CHAIRMAN: No; the hon. gentleman is not in order in saying anything of that kind; but neither is the hon. gentleman in order in referring to a debate and the actions of another Chamber.

HON. A. G. C. HAWTHORN: The article goes on—

> "If the House of Lords is to function as a real second Chamber, it must be

allowed to do its work properly. It is true that it does not claim any other right than that of referring doubtful measures to the country; but it is essential that it should be sure that there is real justification either for passing or holding up any measure."

Hon. R. BEDFORD: What is this all about?

HON. A. G. C. HAWTHORN: I am trying to explain that the position in which we find ourselves has a parallel in the Imperial Parliament. Bills are rushed through the House of Commons in the same way as they are rushed up to us here.

Hon. R. BEDFORD: You are disloyal, at any rate.

HON. A. G. C. HAWTHORN: I do not know how the hon. gentleman reconciles his republicanism with his loyalty.

Hon. R. BEDFORD: You are saying that there is something wrong with the House of Commons.

The SECRETARY FOR MINES: This power may not be used at all, or only occasionally. I am not going to put Bills through all their stages to-night.

HON. A. G. C. HAWTHORN: I am saying that the House of Lords has the same complaint to make about the House of Commons as we have to make here. The article proceeds—

> "We appeal to constitutional democrats to ensure the preservation, before it is too late, of an integral and indispensable part of a free Constitution. Cromwell was not misled when he called a single-Chamber system the most cruel and arbitrary system in the world. The Government have pledged themselves to the reform of the House of Lords, and the nature of that reform is certain to be shaped by the conduct of the House of Lords in the months immediately ahead of us. We want a second Chamber which will not excite the jealousy of the House of Commons, but which will discharge the function of a revising Chamber more thoroughly than ever before."

Hon. W. J. RIORDAN: What has this to do with the question?

HON. A. G. C. HAWTHORN: The hon. gentleman came here two or three years ago pledged to the abolition of the House; but what move has he made in that direction? Why does he not insist on its abolition? Here I say a couple of dozen men were brought in for the same purpose, yet they sit here year after year without attempting to do anything.

Hon. R. BEDFORD: Mr. Presiding Chairman,—Is a dissertation on the abolition of the Upper House in order?

The PRESIDING CHAIRMAN: It is not in order; but hon. gentlemen should refrain from flinging interjections across the Chamber.

HON. A. G. C. HAWTHORN: The article concludes—

> "Nothing like the American Senate would be accepted here. But constitutional democrats could have no worthier or better object than to keep prosperous a second Chamber, which, while not exceeding its duty of referring questionable measures to the country, should examine every Bill with even more thoroughness than the House of Commons has time to do, and thus inform the nation about proposals upon which our whole future depends."

That is what we are supposed to be—a revising Chamber. Therefore we should have time to discuss it thoroughly, and not have to wait until the last ten days or so and then go at racehorse speed to get measures through.

Hon. R. J. CARROLL: You do not help us to form a quorum at times.

HON. A. G. C. HAWTHORN: We have saved the Minister time after time this session. You have thirty-five members all pledged to regular attendance, and if they do not attend, if hon. gentlemen on this side do not attend, they are not carrying out their duties. I would consider that if I did not attend I would be lacking in my duty, and would not feel justified in keeping my seat; but I do protest against hasty legislation being brought in here under the "gag" from the other House.

Question put and passed.

ORDER OF BUSINESS.

PRECEDENCE OF GOVERNMENT BUSINESS ON WEDNESDAY.

The SECRETARY FOR MINES, in moving—

> "That, for the remainder of the session, unless otherwise ordered, Government business do take precedence of all other business on Wednesday in each week"—

said: In giving notice of motion on this matter a few evenings ago, I stated that it would not affect the motion moved by the Hon. Mr. Fowles, which still stands on the business-paper. Therefore, I give this assurance that that motion will be discussed on private members' day as if this motion had not been passed.

HON. P. J. LEAHY: When this motion was brought forward I thought it was another instance of repudiation, but now that we have the assurance of the Minister that the Hon. Mr. Fowles's motion will come on for consideration in the usual way, I am sure hon. gentlemen on this side appreciate that, and see no reason for opposing the motion.

Question put and passed.

CITY OF SOUTH BRISBANE LOAN ACTS AMENDMENT BILL.

SECOND READING.

The SECRETARY FOR MINES: I desire to move the second reading of the Bill to enable the City of South Brisbane to raise, by debentures, a sum of £105,000 for the purpose of redeeming debentures issued under the South Brisbane Municipal Loan Act of 1897, and to make provision for any further allowance proposed to be raised by the said Council. The Bill is a non-party Bill. As a matter of fact, I just simply formally move the second reading of the Bill. The title of the Bill explains itself. No doubt, it is important so far as the people of South Brisbane are concerned. The Bill being self-explanatory, I will content myself by moving that the Bill be read a second time. I desire that the Bill shall go through the Committee stage to-night. The third

reading will be taken at some other sitting. I move—

"That the Bill be now read a second time."

HON. A. G. C. HAWTHORN: The Minister might tell us where it is intended the money will be obtained. Is the South Brisbane Council going to get the money locally or is it going to England or to America? It would be interesting to know what the position is. I presume that this has been arranged already.

The SECRETARY FOR MINES: I have no information.

HON. A. G. C. HAWTHORN: The Minister cannot tell us. He will probably say that their credit is good and that they may be able to get money without difficulty in England, seeing that the Commonwealth Bank were able to get a loan of £1,000,000 the other day for the Water Board without trouble in England.

The SECRETARY FOR MINES: The Commonwealth Bank is catering for a good many local authorities. As the hon. gentleman knows, it is a very good lending authority.

HON. A. G. C. HAWTHORN: Probably the Commonwealth Bank will be able to arrange this entirely.

The SECRETARY FOR MINES: Probably so.

HON. A. G. C. HAWTHORN: The Minister has no information.

The SECRETARY FOR MINES: No.

HON. A. G. C. HAWTHORN: Well, I see no objection to the Bill. The debentures are coming due and have to be renewed somewhere; and I hope the South Brisbane Council will have the chance of getting the money very much cheaper than the Government got the loan from America.

Question put and passed.

COMMITTEE.

(*Hon. L. McDonald, Acting Chairman, in the chair.*)

Clauses 1 and 2 put and passed.

Clause 3—"*Power to borrow* £105,000 *for redemption of debentures*"—

HON. A. G. C. HAWTHORN: What seemed to him to be rather a defect in the clause was that no rate of interest was given. There was no limit of any kind. This was practically giving a blank cheque to the City Council of South Brisbane to get whatever money they wanted. They had to sell sufficient debentures to enable the council to redeem £105,000. Probably they would have to issue debentures up to considerably more than £105,000 to meet that liability, or to pay a high rate of interest. The maximum rate of interest should have been inserted.

The SECRETARY FOR MINES: The hon. gentleman in his second reading speech had raised the question as to the lending authority. That was purely a matter for the South Brisbane City Council, and it would ill-become him to make any suggestion as to who they should borrow from. As he had stated by interjection, the Commonwealth Bank was a lending authority. So far as his memory served him, the rate of interest was never stated in a Bill of that kind. If the Government were lending the money and were taking the responsibility as a Government, he thought the hon. gentleman would have been right in raising the question, as had been done in a previous Bill, that the rate of interest should have been inserted. As the business was the concern of the South Brisbane Council he did not think they had any right to question from whom they should borrow their money. So long as they did it legally and got the necessary authority, it was the city council's concern as to what rate of interest it paid.

Clause put and passed.

Clauses 4 and 5 put and passed.

The Council resumed. The ACTING CHAIRMAN reported the Bill without amendment. The report was adopted.

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

WATER AUTHORITIES ACT AMENDMENT BILL.

FIRST READING.

On the motion of the SECRETARY FOR MINES, this Bill, received by message from the Assembly, was read a first time.

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

GOVERNMENT INSCRIBED STOCK ACT AMENDMENT BILL.

SECOND READING.

The SECRETARY FOR MINES: This is a non-contentious Bill, and in moving the second reading I do not intend to make a lengthy speech. This Bill proposes two very desirable amendments in the Government Inscribed Stock Act which was passed last year. I would like to quote new section 6A, which is contained in clause 2, and which reads—

> "Stock may be inscribed in the name of a minor jointly with one or more persons of full age, but shall not, without the order of a judge of the Supreme Court, be transferred until the coming of age or death of the minor."

In my opinion it is an added facility which no hon. gentleman can object to. The clause is almost taken word for word from section 21 of the Commonwealth Inscribed Stock Act. We further propose to amend the Act with a new section 6B, providing that when a person dies who is registered as owner of not more than £100 worth of stock, transmission may, if the Treasurer approves, be entered, without probate, to the widow or some relative or relatives of the deceased. This may avert considerable hardship in the case of small estates. A similar provision is found in section 44 of the Commonwealth Bank Act, and was also contained in section 17 of the Schedule to the Queensland Government Savings Bank Act of 1916. I contend that the Bill is important, but non-contentious, and I hope it will have a speedy passage. I move—

"That the Bill be now read a second time."

HON. A. G. C. HAWTHORN: There is no doubt that to compel a widow, or anybody getting £100 worth of stock on the death of any person, to take out probate is a great hardship. But there are some cases like this, where financial institutions or banks have insisted, where small amounts only were left, that the whole probate should be taken out, although such amount was small. That is a rather expensive process, and one which is undesirable where there is no doubt as to whom the money should go. I think it is a very reasonable proposition

that should be acceptable. There is also a clause that a minor can be interested in stock with any other person, and that, although as a rule a minor cannot deal with any property of that kind until he comes to the age of twenty-one, I think it is a reasonable thing to say that a judge of the Supreme Court, on being convinced that it is to the benefit of the minor that operations might be made with the stock, should be allowed to deal with it.

The SECRETARY FOR MINES: Under this Bill it cannot be transferred until he is of age.

HON. A. G. C. HAWTHORN: Upon attaining age or upon the death of the minor. Although it might not [8 p.m.] be capable of being dealt with if the minor dies, the order of the judge can make it available at once. This is a very good proposition, and one certainly that nobody on this side of the Council is likely to oppose. It is a move in the right direction.

HON. A. J. THYNNE: The Bill is quite right so far as it goes, but should not some provision be made for the payment of interest during the minority of the minor in the event of the other person's death?

The SECRETARY FOR MINES: The difficulty would arise if they both died.

HON. A. J. THYNNE: It is a question as to what becomes of the payment of interest standing in the name of the minor. The minor cannot give a legal discharge until he is twenty-one. Are the bonds to be tied up accumulating interest until the minor becomes twenty-one years of age? This is a matter that the Minister might make inquiries about.

The SECRETARY FOR MINES: I do not mind postponing the Committee stage of this Bill until to-morrow.

HON. A. J. THYNNE: It is not desirable to delay the Bill in any way, but when one sees a possibility of a defect it is one's duty to point it out so that the Minister may refer it to the responsible officers.

The SECRETARY FOR MINES: I will not go on with the Committee stage to-night.

Question put and passed.

The consideration of the Bill in Committee was made an Order of the Day for to-morrow.

SUPREME COURT BILL.

SECOND READING.

The SECRETARY FOR MINES: I desire to move the second reading of a Bill to make better provision for the trial of civil and criminal causes. We have passed two or three Bills, which have been of a non-contentious character, through their second reading and Committee stages, and, although I am not inviting discussion on this Bill, I can say that it is probably more contentious than the Bills which we have just passed. Judging by the speeches delivered on other judiciary Bills in this Chamber I take it that hon. gentlemen opposite are not as favourable to this Bill as they were to the Bills we have just passed. This is one of three Bills introduced by the Government in accordance with its policy of law reform. The Judges' Retirement Bill, which has been passed by both Houses and will become law on the day it is proclaimed, and the Bill that I intend to introduce in a day or two—the Magistrates Courts Bill—are the two other Bills that I refer to. The Hon. Mr. Thynne was probably quite right in what he said the other day. When speaking on the second reading of the Judges' Retirement Bill, he said a discussion on this Bill was almost inevitable. This Bill really could have been discussed when the Judges' Retirement Bill was before the Chamber, and a good many hon. gentlemen opposite, especially the legal gentlemen, did discuss this Bill. Certainly the Hon. Mr. Fowles discussed it, and, therefore, I do not anticipate a very long discussion to-night on the second reading of the Bill. The effect of this Bill will be to eliminate or abolish the District Court and to transfer the criminal jurisdiction of that court to the Supreme Court, and to transfer the civil jurisdiction to the courts of petty session and the Small Debts Court, which, after the passing of the Magistrates Courts Bill, will be known as the magistrates courts. After the passing of this Bill, and after it comes into force by proclamation, civil actions involving amounts not exceeding £200 will be brought in the magistrates courts. We are already aware that the extent of the jurisdiction of the lower courts to-day is limited to £50, and we are also aware that the limit in the District Court is £200, and, of course, the Supreme Court has no limit. We have a precedent, and a valuable precedent, for this innovation in the New Zealand statute. The New Zealand law has been tried and has been found to be successful, and I would further add that it has been very favourably reported on by responsible officers. It may be said that a £200 jurisdiction is too much to entrust to a court controlled by justices of the peace, but I would point out that appeals may be made from the decision of the justices.

Hon. A. H. PARNELL: Will two justices have the same power as a police magistrate?

The SECRETARY FOR MINES: That is not altered in any way except that the appeal will now lie to the Supreme Court, as the District Court is abolished altogether. It will be permissible, when this Bill becomes law, to take a case to the Supreme Court whether it involves a sum of £200 or a lesser sum. One other feature in the Bill is that existing judges of the District Court are to become Supreme Court judges. Another provision that I want to particularly emphasise is that their pension rights under the District Courts Act are to remain and they are to continue to accrue. There is no interference with their pension rights. The judges of the District Court will become Supreme Court judges, and they will carry their pension rights with them.

Hon. A. G. C. HAWTHORN: You are not repudiating that.

The SECRETARY FOR MINES: I was just about to remark that that clause answers the accusations of hon. gentlemen on the other Bill; and, probably I am anticipating, when I say the hon. gentleman would spell repudiation into this Bill. If we were a repudiatory Government, or if we desired to repudiate the contract entered into with the judges of the District Court, why should we be so anxious to preserve their pension rights? And in the Judges' Retirement Bill the pension rights of the Supreme Court judges have been preserved. That is evidence, and proof sufficient to my mind,

that we desire not to act unfairly, certainly not to the District Court judges, because the District Court judges under this Bill will get an additional salary of £1,000 a year. At present they receive £1,000 a year, and they become Supreme Court judges at £2,000 a year and will retire, because of the passing of the Judges' Retirement Bill, at seventy years of age on a pension which is provided for them as District Court judges. Could anything be fairer? Can any hon. gentleman see repudiation in any Bill or in any amending Bill of that character? This is a fairly lengthy Bill and some of the amendments are consequential. The registrars and other officers of the District Court will become registrars and officers of the Supreme Court. That, of course, is necessary. Actions pending in the District Court are to be continued under the Supreme Court Act so far as possible. Probably one of the most important clauses in the Bill is subclause 1 of clause 4, which provides that the commission as a judge of the Supreme Court which was issued to the President of the Arbitration Court, and which the Privy Council has held entitles him to a Supreme Court judgeship for the term of his office as an Arbitration Court judge, shall be deemed to have been a permanent commission from the date on which it was issued.

Under the New Zealand Act, the president or judge of the Arbitration Court is also a Supreme Court judge, and under this Bill the Governor in Council will have power to call on any of the permanent judges to act as a judge of the Arbitration Court. That, I think, is a necessary provision. I think I have already pointed out that the salary of the Chief Justice at present is £2,500 a year. Under this Act it will be £2,250 a year, and the other judges will receive £2,000 a year. There is also provision in the Bill that the judges shall reside in their respective districts—that is, in the Northern district, or in the Central district, or in the Southern district. I would like to explain, in regard to clause 10, that under the present law a solicitor—it may be contentious from the point of view of hon. gentlemen opposite—may become a barrister after practising as a solicitor for three years and by passing an examination.

Hon. A. J. THYNNE: He has the right of audience now without passing an examination.

The SECRETARY FOR MINES: I understood, as the law now stands, he may become a barrister after practising as a solicitor for three years and passing an examination in classics and mathematics. This Bill proposes that he shall be admitted to the bar after having practised five years as a solicitor, without passing an examination. I think it was pointed out by the Attorney-General in the other Chamber that under our present law or constitution a solicitor may be appointed a judge after practising for five years. I think it would be a great anomaly if a solicitor may become a judge of the Supreme Court after five years' practice, and we should debar him from being admitted as a barrister after a similar term.

Hon. P. J. LEAHY: The difference is that in one case the Government makes the appointment, and in the other case you have nothing to do with it.

The SECRETARY FOR MINES: I do not know that this clause will meet with disapproval by very many of the legal profession. That is a matter with which they will be more cognizant than I, but I understand, and the Hon. Mr. Thynne, no doubt, will put me right if I am wrong, that the examinations for solicitors and barristers are similar. In fact, it has been stated, in discussing this Bill, that the solicitors' examinations in Australia are much harder than those in Great Britain, although I know that has been contradicted. One other important innovation in the Bill is that regarding the rules of court. These at present, and as hon. gentlemen know, are made by the judges.

Hon. A. G. C. HAWTHORN: By a majority of the judges.

The SECRETARY FOR MINES: Yes. Under the present law a majority of the judges make the rules of court, and they must be tabled in both Houses of Parliament. Under this Bill the Governor in Council, on the recommendation of two judges, shall make the rules of court.

Hon. A. J. THYNNE: With the concurrence of two judges.

The SECRETARY FOR MINES: Yes; there is very little difference.

Hon. A. J. THYNNE: There is a fundamental difference.

The SECRETARY FOR MINES: No doubt, the Governor in Council will consult the judges first, or probably ask for a recommendation, or receive one. However, the hon. gentleman is correct, and I think I am also correct. That really briefly explains all that needs to be said on the second reading of the Bill. I think I have given hon. gentlemen its main principles. I desire that the Bill should pass through this stage, and also its Committee stage, to-night.

Hon. P. J. LEAHY: The Committee stage to-night?

The SECRETARY FOR MINES: I have a fairly open mind on the matter. I have no desire to keep hon. gentlemen here late. I understand they want to speak on this Bill, especially the legal members, and also, no doubt, Mr. Leahy. I believe that the Bill means economy, less expensive litigation, and that it will facilitate the business of the courts. Hon. gentlemen know that when this Bill, the Judges' Retirement Bill, and the Magistrates Courts Bill become law, the higher courts will need to be held in very many places, more than they are held at present. As I have said, I believe that the Bill means economy, less expensive litigation, and that it will aid the officers of the court in conducting litigation. I have very much pleasure in moving—

> "That the Bill be now read a second time."

HON. A. J. THYNNE: The hon. Minister has expressed many pious hopes and good wishes in regard to the results to be derived from this Bill. I am very much afraid that he is doomed to disappointment. I think this Bill will have a very bad effect in a great many directions. In the first place, when speaking on the other Bill, I said that the status of the court will be lowered very much indeed. The positions of the judges will be affected, because I presume some authority will have to allot to each judge his district, which means that any particular judge may, at the instigation of the Executive, be marooned in some far distant place, where he will not be allowed to take part in the

Full Court work. The hon. Minister spoke of the rules of court, which will be made by the Executive Council.

The SECRETARY FOR MINES: It is provided that judges may come from one district to another to take part in the judiciary work.

HON. A. J. THYNNE: I say that under this Bill a judge may be marooned in such a way as to prevent his taking part in Full Court work. The Chief Justice for the time being is to select the other two judges who are to form the Full Court. There are seven judges.

The SECRETARY FOR MINES: The Full Court is limited to three judges in this Bill.

HON. A. J. THYNNE: Yes, and I would point out that, seeing that we have seven judges, why should not the country have the benefit of their joint wisdom?

The SECRETARY FOR MINES: Is not the wisdom of three judges sufficient?

HON. A. J. THYNNE: Not necessarily, especially when they are selected by the Chief Justice. I would further point out a fatal point is that if there is an appeal from the Chief Justice's decision, he is to name the judges who are to sit on his appeal.

Hon. P. J. LEAHY: That is a nice position.

HON. A. J. THYNNE: That is fundamentally wrong. What is going to happen is that the Supreme Court will be treated with contempt, and people will go to the High Court and multiply litigation to a large extent—more so than the hon. gentleman and his colleagues yet realise. I know what I am speaking of, and I say that I believe I am fully expressing the opinions of a great majority of the legal profession, especially the older men, who are as anxious as anybody else in the community to improve, wherever possible, our present judiciary system. The Bill does that, and also, by giving the Governor in Council power to make rules and regulations, it practically repeals the Judicature Act—one of the finest pieces of legislation in that particular direction that one can find anywhere. It is most thorough, and gives power to the court to regulate and correct anything that is going wrong in regard to their practice or procedure. That Judicature Act is the result of the work of some of the ablest men in the Empire, and has stood for many years; and I do not think that, as regards the getting of justice and at the root of things, it has ever been surpassed. The machinery provided is so complete that it is true it sometimes makes some of the simpler cases rather more expensive than some of us would like, and we in the legal profession would be delighted to see some modification by which the proceedings in these cases might be simplified. But I want to warn the hon. gentleman that his Government is running a very great risk in altering that procedure except in cases of the gravest and most serious consideration. However, I presume the Bill will pass. The hon. gentleman has his cohorts here. The Act is to be brought into operation by proclamation. I submit most respectfully that it first should be referred to some competent people who will be capable of criticising it and suggesting improvement, and that the Government should defer bringing it into operation until they are quite assured that they are right in doing it.

The SECRETARY FOR MINES: It has been before the Opposition in the Assembly.

HON. A. J. THYNNE: What opportunity have they had of amending the measure? How long has it been before Parliament?

The SECRETARY FOR MINES: They have a barrister there.

Hon. A. G. C. HAWTHORN: He tried to get in some amendments, but was not allowed to.

HON. A. J. THYNNE: There may be one or two barristers in the Assembly, but party interests should not be allowed to come in in a matter of this kind. I am sure that in this State there are men who [8.30 p.m.] could advise safer amendments to the procedure, and not risky ones as proposed here. I point out three things. First of all, limiting Full Court judges to three. That is, in my opinion, a fatal mistake, because it may be that two District Court judges and the Chief Justice will dominate the will of the court, and it will bring about a very unsatisfactory position. That will tempt people to take the business which the Full Court of Queensland ought to do to the High Court of Australia. That will involve costs and expense. The fault I find with this Bill is that it is an official production. We have it from the Attorney-General, who is not supposed to be conversant with the law, that he had been advised on this matter by his officers. I think I am right in saying that there are hardly any officers of the Crown Law Office who have any experience from the litigants' point of view outside—that they are all men who have creditably studied for the profession in their own way, and passed their examinations, but who lack that unpurchasable wisdom of experience. They have had experience from the official point of view.

The SECRETARY FOR MINES: There are some bright young intellects there.

HON. A. J. THYNNE: I am not disputing that, but I say that this will have a fatal effect. They have not had an opportunity of looking at it from a public point of view. We, who have fought our cases all these years, know what the public point of view is. The hon. gentleman speaks of the abolition of the District Court. That court has done good work, and I would be sorry to see it abolished. There have been very few erroneous judgments. Very few appeals from that court have been made. That is a credit to the judges and a credit to the profession who practise before the District Court. The training of police magistrates does not qualify those magistrates for the higher questions even up to £200. To some litigants a lawsuit of less than £200 is of more vital importance to their welfare, and their future, than the thousands of pounds that may be sought for in the Supreme Court, and litigants ought not to be expected to have their cases dealt with by men who have not been properly trained for the work. I understand some form of examination is established—that is not sufficient.

The SECRETARY FOR MINES: Litigants may go to the Supreme Court.

Hon. A. G. C. HAWTHORN: Look at the costs.

The SECRETARY FOR MINES: In the first instance they can go to the Supreme Court.

HON. A. J. THYNNE: If they go to the Supreme Court for an amount within the jurisdiction of the lower court, they would get a cool reception. They would probably

not be allowed the expenses of moving in the Supreme Court when there was another court to go to.

The SECRETARY FOR MINES: Is that really the practice now?

HON. A. J. THYNNE: I think, except in special cases when something more—for instance, the obstruction of a will—when the amount is only a small element in the decision, that the Supreme Court would entertain it and not penalise the people. If it is a case in which they think the District Court should adjudicate, it is remitted to the District Court and expenses are piled up unnecessarily on the people. To give the magistrates, however good they may be as police magistrates, however well versed they may be in such things as petty debts courts cases, and ordinary police court procedure, does not fit them for the higher duty. It means this—that police magistrates will have to become either solicitors or barristers. The outcry would become too strong to be resisted.

The SECRETARY FOR MINES: I understand that reform of this nature was suggested by a previous Attorney-General.

HON. A. J. THYNNE: I cannot say anything about that. The hon. gentleman spoke of the number of places where the courts have got to be held. The Supreme Court judges travelling around there will have a registrar established in each place, who must be a competent man. An ordinary clerk of petty sessions is not qualified to act as registrar, and a District Court registrar is not qualified to act as Supreme Court registrar. He does not know anything about the duties.

The SECRETARY FOR MINES: Under this Bill he becomes a Supreme Court registrar.

HON. A. J. THYNNE: He becomes a Supreme Court registrar, but he is not qualified for the position. He runs the risk of smashing the whole business. This will be done by incompetent—or I will say untrained—men. These men will double the expense of litigation. I offer a very serious protest against this legislation. It is going to be derogatory to our courts, bad for litigants, and no good for the public. I also wish to put in my protest on behalf of my brethren—the solicitors' branch of the legal profession. The Law Association unanimously passed a resolution disapproving of this measure. I know the work of that Law Association. I have been its president or chairman for a period of thirty years. That institution was established to protect the public against defaulting solicitors—to establish a discipline which would protect the profession and the public from men who did not realise their duty to the public, to themselves, or to the court. Solicitors are all officers of the Supreme Court, and they connive together to try to bring both persuasion, example, and warning, by various means, to try and keep the standard of the profession as it ought to be. I believe that the standard of our profession in Queensland to-day is as high as in any other part of the British Dominions. I say that, because I can go back many years when the standing was not quite so high. There were some black sheep. When I was serving my articles, over fifty years ago, two or three of the leading firms—in this my old chief took an active part—set themselves to work to prevent the abuses of the proceedings of the court which were going on. The result of their work was to effectively cleanse the profession, and it has remained clean ever since. Those who have been trained since have been actuated with a high ideal of their duties and their honour, and those few ones who forget themselves have been taken in hand by the Law Society, brought before the court, and expelled from the profession. Some may say that the legal profession does not desire reform. If they had the power and the time available for the work, there is no class of people in the community who would work for reform more readily than they would. I have been a reformer nearly all my life. The Minister is familiar with the procedure of wardens' courts. In 1874, I had the honour of being invited by the then Attorney-General to frame a code of procedure for wardens' courts, and the code I framed then is still in use in the hon. gentleman's department. When Sir William MacGregor went up to New Guinea I happened to be in charge of the Law Department, and he naturally sought advice; and one of the most interesting things I did was to advise him as to the laws which he took with him by virtue of his taking possession on behalf of the British Crown of New Guinea, and laws which in the working of the place it would be necessary for him to enact.

One great question arose as to what form of procedure he would establish in those courts. The late Sir Charles Lilley advised him to adopt the Judicature Act. I joined issue with him, and told Sir William MacGregor that both he and his officers, unless they had been previously trained in legal procedure, would be driven mad by it, and I strongly urged them to adopt the Warden's Court procedure such as has been in force now since 1874, and, after a struggle, I remember Sir Charles Lilley turning round to Sir William MacGregor and saying, "The boy is right; follow his advice." Sir William MacGregor adopted a similar procedure to that followed in the Warden's Court. When I was in the Crown Law Office, I won't attempt to mention the reforms I made there. They were reforms that were badly wanted. There may be some that have cropped up since, although I cannot say that I know of any. Then there is the reform in the post office. The result of that is that our postal officials have a standing recognised throughout the State and have attained some of the highest positions in the Commonwealth as a result of that reform. Take the Department of Agriculture; I made some reforms there. I take the keenest interest in any reform, whether it is law reform or anything else for the improvement of the machinery or working conditions. I hope hon. gentlemen will not think I am saying this out of any feeling of self-advertisement. It is because I feel my brethren in the profession are actuated by the same spirit that I am; and had the Law Society or the Bar Society been consulted, as they should have been, before a Bill of this kind was compiled, and the defect of it pointed out to the Government, I am sure this Bill would not have come before Parliament as it is at present; but, of course, the ukase has gone out and the Bill has got to be passed whatever the consequences may be. I content myself with entering a very strong and distinct protest against the Bill as one badly devised, dangerous in its prospects, and one that will be injurious to the standing of the courts and will destroy the jurisdiction of the District

Court and put it in the hand of magistrates who have not been trained for the work. It is likely to lead, not to a reduction in litigation, but to a very great increase of it, and my advice, even at this late hour, is that the Minister and his colleagues give grave consideration as to whether they ought to proceed with this Bill.

HON. A. G. C. HAWTHORN: After the very emphatic protest and very interesting and informative address given by the Hon. Mr. Thynne, it seems to me that there is not very much left to say. The hon. gentleman has certainly expressed the views of the whole of the legal fraternity of Queensland, with the exception, as far as I can see, of one member of another place, who, apparently, has given the Bill his full endorsement. There is no doubt that the lay Attorney-General that we have at the present time has gone in, without any knowledge of law, for what he considers legal reform; but I submit that it is really not reform. Instead of reform, it is going to create difficulties, and will make it more hard in future for litigants in Queensland. First and foremost, a very great mistake that has been made is the abolition of the District Courts. The District Courts Act has been in force for over forty years, and it has worked well. It has received the support of the whole of the community, and I have never heard a single complaint against it. It affords a cheap and speedy means of litigants getting their cases decided. The jurisdiction is up to £200: and the judges are qualified barristers, acting, where necessary, with the assistance of a jury, and there is no doubt that up to the present time the District Courts have given every satisfaction to suitors. It is proposed now to wipe them out and give jurisdiction to a similar amount to police magistrates. Above all, it is going to wipe out the opportunity that people having claims up to £200 at present have of getting a jury. That is a fatal mistake. If people want a jury in future, they will have to go to the Supreme Court, and there is no doubt many litigants will require the assistance of a jury. It is an unfair thing to put the police magistrate, a man without legal training—a man who, according to his light, does the very best he can, but he must be handicapped by never having had legal training—in the position of dealing with amounts up to £200 and expect him to undertake work that up to the present time has been undertaken by judges who have had legal training and who have had special practice and special training to fit them for their task. The Hon. Mr. Thynne has pointed out the defects in regard to the constitution of the Full Court. At the present time the Full Court is constituted by the members of the whole of the Supreme Court bench. In future it is going to be constituted by three judges, one of whom will be Chief Justice, and the other two will be men selected by him, thereby cutting out all the other judges of the Supreme Court, and allowing the Chief Justice to pick any man he may desire to assist him on an appeal. That is a false position to put any Chief Justice in, and it is a false position to put litigants in Queensland into. They should have the right of having the assistance of every Supreme Court judge. We have, too, a system inaugurated that when a writ is issued a statement of claim must be issued with the writ, and when a defence is put in a statement of defence must be put in with that. That is entirely different from the present practice. We frequently have cases where a writ is issued, and the mere claim on the writ is put in and possibly the action is settled or withdrawn without the expense of a fee to a barrister for a statement of claim or a fee to a barrister for a statement of defence in appearance. That is quite unnecessary, and likely to lead to considerable expense. As to the registrars, presumably every clerk of petty sessions throughout Queensland where a Supreme Court is to be held, will be appointed a registrar, and he is to be furnished with the powers of a Supreme Court judge. That is too big a power to give to any registrar, more especially as the registrars in future are not likely to be legal men. It might be right enough in a Supreme Court in Brisbane, Townsville, or Rockhampton, where the registrars have had legal training. Probably much harm will be done through giving the outside registrars equal power with that of judges of the Supreme Court. That is carrying the thing too far. Then there is the question of the alteration of the rules of court. It has to be done by the Governor in Council, with the concurrence of two judges. The rules of court under the Judicature Act are the result of years of study. They were drawn up originally by Chief Justice Griffith, who was assisted by Mr. Justice Harding and Sir Charles Lilley. Those rules of court have been amended from time to time, with the result that I do not suppose there is a more complete set of rules governing the Supreme Court practice in the whole of the British Empire, and it is rather presumption on the part of any Government, with an Attorney-General who is not a legal man, to attempt to do away with the whole of these rules of court and allow the Governor in Council—who, after all is the Attorney-General—with the concurrence of two judges, to alter those rules and bring in any fresh rules they think necessary. Then there is the question of pensions to the Supreme Court judges. That is a very great defect in the Bill. As we have already said, a pension is one of the greatest attractions we can offer a man in the profession. If he is not likely to get a pension, a leading barrister is not likely to accept the position. The Minister rather prides himself on the fact that they have not taken away the pension rights of the existing District Court judges. I do not know how they managed not to do that. I do not know why they should make fish of one and flesh of another.

The SECRETARY FOR MINES: The pension rights have not been taken away from the Supreme Court judges either.

HON. A. G. C. HAWTHORN: The life tenure has been taken away from the Supreme Court judges, and that is just as big a breach of contract as taking away the pensions would be.

The SECRETARY FOR MINES: What is the practice in England regarding the rules of court?

HON. A. G. C. HAWTHORN: I think you will find that a majority of judges pass the rules of court.

The SECRETARY FOR MINES: Not in England. They have to be approved by the Governor in Council.

HON. A. G. C. HAWTHORN: Here the Governor in Council may do it with the

concurrence of two judges. In the past a majority of the judges of the court passed the rules of court—men who were constantly having the necessity of rules of court brought before them. It seems to me that no matter how we argue or what we say, there is no likelihood of the Government being induced to withdraw this Bill, and I certainly, with the rest of the profession throughout Queensland, consider that the Bill is ill advised, that it will not lead to reform, and that it will probably be more expensive to litigants. It will certainly be more unsatisfactory for them to have to go before police magistrates instead of before District Court judges. They will prefer to go to the Supreme Court at very much heavier expense or leave it alone altogether. It seems to me you are depriving a man who has a claim—and a good one probably—up to £200, of an opportunity of getting that claim settled by a properly-constituted District Court, such as he has at the present time, and particularly before a jury if he likes. Many men, when it has to do with an amount up to £200, consider a jury a very desirable adjunct to the court. You are cutting them entirely out, and making them fall back on a police magistrate who will not have the necessary legal training for going into these matters fully and properly. Police magistrates are very good men for their particular work: but anyone feels there is a very great risk in entrusting them with such powers. The police magistrates are a very deserving class, so far as I know them, and I always found them quite prepared to carry out their duties.

[9 p.m.]

The SECRETARY FOR MINES: My opinion is that it requires the same legal knowledge to consider a case involving an amount of £50 as one of £200.

HON. A. G. C. HAWTHORN: There are very few cases of £50 in the Small Debts Court. They actually run from £10 to £30. In the District Court there is always a jury available if one is wanted, and I say that is a very necessary adjunct. The result will be that people will go to the Supreme Court and expenses will be increased. They must either drop the case or go before a police magistrate otherwise. The Bill certainly will require to be considerably amended if it is to be made an economical measure.

HON. A. H. PARNELL: After the very able speeches of the Hon. Mr. Thynne and the Hon. Mr. Hawthorn, I do not wish to say much. I simply wish to give my experience as a layman and a business man who has lived in the West for twenty-five years. I have seen most of those courts. Unfortunately, I have been dragged sometimes into them, and I say, without fear of contradiction, that the very best court in the West has been the District Court, and its judges have been able men, capable of satisfying all that was required of them.

The SECRETARY FOR MINES: That is a good argument for the Bill.

Hon. W. J. DUNSTAN: Would you say that of the late Sir Arthur Rutledge?

HON. A. H. PARNELL: The late Sir Arthur Rutledge was a very able man. I certainly remember in the nineties a certain judge who was unable to carry out his duties, but I also know another judge against whose decision there has never been a successful appeal. Some of the police magistrates also are very able men, but I should be very sorry to take a case of £200 before some of the police magistrates in the West.

The SECRETARY FOR MINES: I knew a police magistrate who gave a man three years' hard labour.

HON. A. H. PARNELL: Extraordinary things happened in the early days; but they have all passed now. The police magistrates in the small towns are not, perhaps, so inclined to be impartial as they should be. I was dragged into the Supreme Court once. It was a case of £200. I was £200 out and the other man lost £600, so that there was pretty well £1,000 gone.

The SECRETARY FOR MINES: The lawyers must have done well.

HON. A. H. PARNELL: No. Witnesses' expenses and bailiffs' expenses were considerable. It is a very great thing for a man to be able to go before a jury. A judge may be a very good man on questions of law, but he may not thoroughly understand a question of fact. I recollect a case in which I was advised by one of the best lawyers in Queensland not to have a jury. I slept on the matter for twenty-four hours and decided to have a jury. The very learned judge summed up against me. I had one of the best barristers obtainable. My solicitor said to me afterwards, "Parnell, the jury saved you"; and they did. It was a simple cattle case, and the jury, not one of whom I knew, understood the case. Therefore I say it is a very bad thing to abolish the District Courts with their juries, and to give the police magistrate in the small towns such power.

Question put and passed.

COMMITTEE.

(*Hon. L. McDonald, Acting Chairman, in the chair.*)

Clauses 1 and 2 put and passed.

On clause 3—"*Abolition of District Courts*"—

HON. A. G. C. HAWTHORN regarded that as the worst feature in the Bill. He wished to know if the Minister would accept amendments. Certainly, he would like that clause struck out. That was the dangerous clause of the Bill. Why should courts which had been working satisfactorily for forty years be abolished?

The SECRETARY FOR MINES pointed out that that clause was the very essence of the Bill. He did not agree with all that the hon. gentlemen opposite had said. The function of the District Court had now been properly allocated to the Supreme Court and to the magistrates court, as the lower court would be known. He wished to contradict an interjection made by the Hon. Mr. Hawthorn, who stated that Mr. Macgregor had no opportunity of introducing amendments in the Assembly. Five or six amendments moved by Mr. Macgregor were accepted.

Hon. A. G. C. HAWTHORN: They were of no importance.

HON. P. J. LEAHY desired to know if the Minister would proceed further with the Bill in the event of that clause being deleted. He was inclined to support the omission of that

clause, because he agreed with what several hon. gentlemen had said about the District Courts and the necessity for retaining them.

Question—That clause 3, as read, stand part of the Bill—put; and the Council divided:—

CONTENTS, 20.

Hon. R. J. Carroll	Hon. H. C. Jones
,, W. P. Colborne	,, T. L. Jones
,, W. R. Crampton	,, G. Lawson
,, J. F. Donovan	,, H. Llewelyn
,, T. J. Donovan	,, H. G. McPhail
,, W. J. Dunstan	,, R. J. Mulvey
,, J. S. Hanlon	,, W. J. Riordan
,, E. J. Hanson	,, A. Skirving
,, A. Hinchcliffe	,, R. Sumner
,, A. J. Jones	,, G. H. Thompson

Tellers: Hon. T. L. Jones and Hon. R. J. Carroll.

NOT-CONTENTS, 5.

Hon. A. Dunn	Hon. A. H. Parnell
,, A. G. C. Hawthorn	,, H. Turner
,, P. J. Leahy	

Tellers: Hon. A. H. Parnell and Hon. A. Dunn.

Resolved in the affirmative.

On clause 4—"*Commission to President of Court of Industrial Arbitration*"—

HON. P. J. LEAHY: It was quite clear to him that it was not the slightest use moving amendments. They had moved an important amendment a short while before, and they now saw that the Government was going to carry everything by sheer weight of numbers. So far as he was concerned he was not going to waste any time in moving amendments to the Bill, and the Government would take the responsibility.

Clause put and passed.

Clauses 5 to 13, both inclusive, put and passed.

The Council resumed. The ACTING CHAIRMAN reported the Bill without amendment. The report was adopted.

THIRD READING.

The SECRETARY FOR MINES: I beg to move—That the Bill be now read a third time.

Question put and passed.

TITLE.

The SECRETARY FOR MINES: I move—That the title of the Bill be—"A Bill to make better provision for the trial of civil and criminal causes."

HON. A. G. C. HAWTHORN: I think the Bill ought to be called "A Bill to make poorer provision," because I am certain that that will be the result of it. The people of Queensland in future are not going to be treated under this Bill nearly as well as they have been under the present system. However, we have entered our protest; but, being overruled by the brutal majority of the Minister, we have not been able to do any good. As sure as we are here the people of Queensland will find that under this Bill they will be in a much worse position than they are now.

Question put and passed.

On the motion of the SECRETARY FOR MINES, the Bill was passed, and ordered to be returned to the Legislative Assembly by message in the usual form.

ANZAC DAY BILL.

COMMITTEE.

(*Hon. L. McDonald, Acting Chairman, in the chair.*)

Clause 1—"*Short title*"—put and passed.

On clause 2—"*Anzac Day to be a national holiday*"—

HON. A. G. C. HAWTHORN: There was some suggestion when the Bill was previously before the Council that an alteration ought to be made as to the day on which Anzac Day should be observed if it fell on a Saturday or Sunday. He had spoken to Canon Garland about the matter, who said that the committee, of which he was either a member or chairman, at whose request the Bill was brought in, would prefer to have it exactly as introduced—that was, that Anzac Day should be observed on the day on which it fell. In view of what Canon Garland had said, they would be doing wrong to make any alteration in the Bill.

The SECRETARY FOR MINES: He also had heard the views of Canon Garland. In fact, the Bill had been delayed in order to allow of further consideration being given to the matter by all the bodies interested. The Premier had been approached, and it had been decided to pass the Bill as it had emanated from the Assembly.

Clause put and passed.

The Council resumed. The ACTING CHAIRMAN reported the Bill without amendment. The report was adopted.

THIRD READING.

On the motion of the SECRETARY FOR MINES, the Bill was read a third time, passed, and ordered to be returned to the Assembly by message in the usual form.

ADJOURNMENT.

The SECRETARY FOR MINES: I beg to move—That the Council do now adjourn. As we have done a fair amount of business to-day, the first business to-morrow will be the motion standing under the name of the Hon. Mr. Fowles. After that is disposed of, we will have the third readings of the Bills which have been passed through the second reading and Committee stages to-night, to be followed by the second reading of the Bill which was received from the Assembly to-day.

HON. A. G. C. HAWTHORN: The Minister, in moving the adjournment, said he thought we had got through a satisfactory amount of business. We may have done that, as far as the number of Bills is concerned. We have passed eight Bills and two motions, but I question whether the whole of that legislation is going to improve the State of Queensland one iota. It is certainly not going to put one more acre under cultivation.

The SECRETARY FOR MINES: I notice you have been reading the "Agricultural Journal."

HON. A. G. C. HAWTHORN: Yes; and I will read enough to show what one man can do in Queensland. I notice in the "Agricultural Journal" for July the work of one man at Buderim Mountain, who has one acre under intensive cultivation. He has got it working under bananas, pineapples, and cucumbers and peanuts alternatively, and

with intensive cultivation he has made on that piece of ground £400 in one year in gross profit. That is the sort of thing that this Government and this Council want to apply themselves to—the settling of people on the land by making their conditions more comfortable. It is a great pity the Government do not apply themselves to the question of getting more settlement on the land close to railways already constructed, instead of waiting to try and borrow or get from the Commonwealth millions of money to settle the Upper Burnett. I could not help thinking how well this man is doing, and what an example he shows not only to the Government but to the whole of the people of Queensland. We talk a great deal about our resources, but we do not attempt to make the best use of them.

Question put and passed.

The Council adjourned at 9.40 p.m.