calculates the returns on the basis of the actual cash cost, together with proportionate flotation charges on loans and with depreciation.

I would now invite your attention to Table T, which shows the annual payment of interest for, and the net amount derived from, loan public works and services, together with the actual charge on revenue to make up deficiencies in earnings. The table shows the transactions for a period of ten years, and bears eloquent testimony to the progressive value of public works and services in which loan money is employed.

Taking the year 1899-1900, it will be seen that after allowing for the net return from railways, the interest received from local bodies, and the interest on the public balances which totalled £270,397, a contribution was required from revenue amounting to £238,565 to meet the interest charge; in other words, the actual charge on revenue to make up this deficiency was 25 per cent. This charge on revenue has been gradually reducing during the past ten years, and now stands at 15.1 per cent., the total receipts from loan works having during that period increased from £270,397 to £368,257, and the charge on revenue decreased from £238,565 to £166,296—progress which I think can fairly be called substantial, besides affording good reason for hopefulness in the future.

Referring now to our industries, it will be seen from Table U that our export returns in a satisfactory condition. Increased export values of meat and other products, which at one time were imported in large quantities. The products to which I refer are bacon and hams, butter, leather, grain, and such like. This is due to improved methods in manufacture and marketing, and of opinion that as the purchasers of the lands under the Agricultural Lands Purchase Act develop their holdings, the production of these articles will be largely augmented to the benefit of the producer and the community generally. I may here mention that of the lands repurchased under the Act referred to, sales to the amount of £221,664 have been effected, and as the land has been sold on terms and in moderate farming areas, strenuous efforts will be put forth by the purchasers to acquire the freedom in the time allowed for the payment of the purchase money.

Conclusion.

I have now placed before the Committee a plain, straightforward statement of the financial condition of the colony, and I think I may fairly claim that the encouraging view which I took of affairs last year has been fully realised.

HONOURABLE MEMBERS: Hear, hear! Mr. DAWSON: That's our policy.

The TREASURER: The year has been one of great progress in all directions. Our exports have considerably increased. The rise in the price of wool andBronze must have given new heart to our pastoralists; and while the output of our mines has been most satisfactory, the exhibition at Earl's Court has brought Queensland's mineral resources more prominently before Great Britain than any previous efforts in our history, and will no doubt be instrumental in attracting capital and desirable colonists to our shores.

Mr. DAWSON: Hear, hear! The TREASURER: The increased yield of gold, sugar, and other products only shows what we are capable of doing with energy, capital, and greater population. The prosperity of our own people, after all, is the greatest inducement we can offer to the surplus population of the old world to come here and participate in our advantages.

HONOURABLE MEMBERS: Hear, hear! Mr. DAWSON: That's our policy.

The TREASURER: The anxiety and depression which so widely prevailed a few years ago have almost entirely disappeared, and business in general has assumed a brightness of aspect and cheerfulness of tone which are the sure indications of growing prosperity. The amicable relations between employers and employed referred to last year have been maintained and, I believe, strengthened. The disposal of the unemployed has ceased to be a difficulty, and on all sides we see evidence of increased spending power on the part of the people. As illustrating this, it is only necessary to point to the vast numbers of people who attend public gatherings, sports, and amusements of all kinds throughout the colony.

During the past five years the aggregate surpluses, amounting to nearly £300,000, have been devoted towards paying off our debt. Our finances are now, however, in so sound a condition as to justify us in considerably extending our efforts to further the development of this great colony, and in asking you to enable us to effect this object by authorising the expansion of our railway systems in various parts of the colony, due care being taken to build only such lines as are likely to pay working expenses and interest on the cost of construction. To carry out this policy it will be necessary to ask you to authorise the issue of a loan, the amount of which can only be determined by the number of public works you will see fit to sanction.

Mr. DAWSON: You will have to bring in another statement first.

The TREASURER: In conclusion, I must congratulate the Committee on the improved condition of the colony during the past year, especially as this improvement cannot be regarded as of a fortuitous nature, the progressive aspect of affairs at this stage of the year upon which we have now entered showing every indication that we are only at the beginning of a new era of unexampled prosperity.

HONOURABLE MEMBERS: Hear, hear! Mr. DAWSON: That will do.

The TREASURER: I now beg to move—

That this be granted to Her Majesty, for the service of the year 1899-1900, a sum not exceeding £300, to destroy the enemy of the aite-de-camp to his Excellency the Governor.

Mr. DAWSON: (Chapman & Towne): I would suggest that before proceeding any further with this matter the debate should be adjourned till Tuesday next.

The TREASURER: I have no objection to the adjournment of the debate till Tuesday if that will satisfy the leader of the Labour party.

Mr. DAWSON: That will do.

The TREASURER: But we had better pass this vote and then report progress.

MEMBERS of the Opposition: No, no! Mr. DAWSON: No; it is not usual to pass a vote.

On the motion of the TREASURER, the Chairman left the Chair, reported progress, and the Committee obtained leave to sit again on Tuesday next.

CRIMINAL CODE BILL.

RESUMPTION OF COMMITTEE.

Clauses 22 to 36 of the 1st schedule put and passed.

On clause 37, as follows:—Any person who—(1) kills the Sovereign, or does her any bodily harm tending to her death, or causes or procures her death, or wounds, or maims or wounds, or imprisons or restrains; or
(2) Kills the eldest son and heir-apparent for the time being of the Sovereign, or the Queen Consort of the reigning king; or
(3) Forms an intention to do any such act as aforesaid, and manifests such intention by any overt act; or
(4) Consiprers with any other person to kill the Sovereign or to do her any bodily harm tending to her death, or to make any attempt, impreisonment or restraint; or
(5) Levies war against the Sovereign—
(a) With intent to depose the Sovereign from the sway, honour, and royal name of the Imperial Crown of the United Kingdom of Great Britain and Ireland, or of any of her Majesty's dominions; or
(b) In order to move the amendment, was to propose the suggestion, and moved in that form.
(6) Consiprers with any other person to levy war against the Sovereign with any such intention or purpose as last aforesaid; or
(7) Forfeits any person to make an armed invasion of any part of her Majesty's dominions; or
(8) Assists by any means whatever any public enemy at war with the Sovereign; or
(9) Violates, whether with her consent or not, a Queen, or the wife of the eldest son and heir-apparent for the time being of the Sovereign, is guilty of treason, which is called treason, and is liable to the punishment of death.

The HOME SECRETARY: They were

Mr. McDONNELL: The amendment proposed the abolition of the punishment of death for any of the crimes mentioned in this clause, and he presumed he was in order in discussing the crimes referred to. It seemed most extraordinary to him to have such a subsection in this clause. The words, "with her consent" altered punted him, because they had legislation which provided for separate punishment for separate offences against females, and coming down to such an offence against so high a person, "with her consent" seemed extraordinary words to use, and he thought that any man who "with her consent" committed such a crime, was not deserving of death. It was absurd to insert such a subsection in the Code. The case of the man who shot the Duke of Edinburgh would not be dealt with by this clause; but it was just possible that a man of weak mind might come to Australia to-morrow, and commit some similar act, and if public feeling and party feeling ran as high as they did on that occasion, they might have a repetition in Queensland of the same judicial murder as he had mentioned. Taking all things into consideration, he thought ample punishment would be meted out for any of the crimes mentioned in the clause by imprisonment for life without hard labour.

The CHAIRMAN: The hon. member is not in order in discussing that subsection on this amendment.

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Edinburgh, it was not under that law that he was convicted, and it would not have made the slightest difference whether that had been in force or not. There was nothing in the Code about attempting to murder the second son of the reigning Sovereign. O'Farrell was hanged for attempting to murder the second son of the Sovereign, O'Farrell was hanged for a very much less than that which obtained in the mother country. It might be possible that the court here would be prejudiced, and the Imperial courts would sit in and try the individual.

Mr. Dunwoodie: Then, according to that it is not possible for us to abolish the death penalty. The Home Secretary: Practically he doubted it very much. This was not an offence against one person, but against the whole community. To say that a person who killed the Sovereign was to be liable only to suffer imprisonment for life was incongruous, to say the least, when they retained the death penalty for the wilful murder of an ordinary individual. No one would doubt that killing of a Sovereign or making war against a Sovereign was not a very much more serious thing in the eyes of the community of a private individual or making war against a private individual.

Mr. Givens (Cairns) thought the Home Secretary might very well consent to omit the death penalty for all the offences mentioned after subsection 2. That would be a fair compromise which the Committee might very well agree to. It was certainly as serious an offence to kill the Sovereign as it was to kill any one else, and if the death penalty was to be retained at all it should be retained for that just the same as for killing a private individual. But if they retained it for all the other offences mentioned in the other subsections, they were very likely, in the future, to commit as serious mistakes as had been committed in the past. If they looked back at the constitutional history of England they would find that often the men who had been tried and convicted were so much to-day were looked upon in their time as rank rebels, and in many instances were punished as such with the same penalty of the law. These patriots who straggled for liberty were, in his estimation, the very best and most loyal citizens which Great Britain had ever produced. Although their conduct might seem dissolus at the time, yet the very fact that they were struggling for the welfare of the whole nation showed that they were more loyal than those who condemned them. In fact, when they looked back, they regarded those people as martyrs, and recognised the work they did. If that had been possible in the past, it would be possible in the future. He could imagine many kinds of cases which could come under this heading—offences which could be looked upon with reproach in which the death penalty was too severe, and it would be very undesirable to find, after they had murdered a man, that he had been anointed by the best and noblest motives; that he had been working simply for the improvement of the constitution under which he lived. If they legally executed a man who was called a crime, but which was not a crime at all, it was equivalent almost to murder. He did not hold the offence of treason lightly. Anyone who upset the existing order of things, unless he had very good reason for doing so—unless he was animated by good and single-hearted motives—should be punished, and punished severely; but he thought the subsections of this clause, with the exception of the first two, should be abolished. He commended this to the consideration of the Home Secretary. He believed the Committee as a whole would agree to a compromise of that sort, and that it would meet the wants of the case to the fullest extent.

Mr. Ryland (Olympia) was going to support the amendment. A person who killed a sovereign should be dealt with under the common law, which made the penalty death or life. The killing of anybody. There was very little difference between traitors and patriots. A man whom one section of the community would regard as a traitor and deserving of nothing but death would be looked on by another section as a patriot. A man might be a traitor to his sovereign and yet not a traitor to his country. He might deserve well of his country, although by some he might be called a traitor deserving of death. The men who had made history and brought about all the reforms they now enjoyed were called traitors by a certain class. Then, as the hon. member for Fortitude Valley had pointed out, there might come a time when it might be considered advisable to remove from under the Crown, or in other words, establish an Australian republic. Would they bring up every man who advocated that and hang him? He might be one of the best citizens of the whole nation. But if trying to commit treason he would only deserve to be hanged. Look at the men in connection with the history of my own country who had been called traitors—Wolf Tone, Robert Emmett, Gavan Duffy, and others. If they took men of that class and hanged them, they could never be compensated or released; but if they were imprisoned for life, it might not be long—it might not be five or ten years—when they would be looked upon as the best men of the nation—the men to put in high places the men to fill the most important positions, the men to put in the positions of premier or president of a nation.

Mr. Glassby: That is a case—Gavan Duffy—in point.

Mr. Ryland: Yes; men had been called traitors in the old country who, when they had come out here, had proved themselves some of the best citizens and benefactors of Australia.

Mr. Dunwoodie: There is no close reason for monarchs. He would give a few
names of victims or intended victims to whom the provisions of this or a similar law would apply if this Bill were in force in the countries where the crimes were committed. There was the Empress of Austria, who was recently assassinated. She was an inoffensive lady; but the man who assassinated her—

Mr. RYLAND: It was a madman.

The HOME SECRETARY: Eight times.

Mr. DAWSON: Oh, yes; the mere attempt rendered a person liable. It was not even necessary that the person attacked should be fired at. If the hon. gentleman fired a blank cartridge at the Sovereign, and he (Mr. Dawson) agreed with him that that would be a good way to bring their common trouble prominently before the people of the country, they would both be liable to the death penalty. But, as a matter of fact, a man need not fire a blank cartridge, because the mere flourish of a revolver would be sufficient to make him liable. The Home Secretary had stated that that provision should be retained because a monarch was entirely different from an ordinary individual; and he would like to know if the hon. gentleman meant all monarchs in the British dominions when he said that the monarch could do no wrong.

The HOME SECRETARY: I never said that the monarch could do no wrong.

Mr. DAWSON: When the hon. gentleman said that he (Mr. Dawson) wanted to know about King Billy and Queen Mary, he was under the impression that if they offended against the Sovereign warranted the punishment of death. At the same time he was doubtful whether the discussion of the clause would affect the matter one iota, because, if they carried the amendment, the Bill would probably not become law.

Mr. DAWSON (Charters Towers) was inclined to agree with the Home Secretary and the hon. member for Rockhampton when they said that if there was any alteration of the clause the Criminal Code would not be passed at all. An amendment of the clause would be taken as an unjustifiable interference with the safeguards which surrounded the sacred person of the Sovereign. At the same time he had a great deal of sympathy with the object in view. It did appear to be rather a ridiculous provision in many respects. It was a provision which entailed a great amount of danger. The hon. member for Rockhampton had pointed out that it very often happened that a monarch was shot at. He might be missed, but the mere fact of firing at him would entail the death penalty, though no injury was done.

The HOME SECRETARY: It is not inflicted in practice.

Mr. DAWSON: He understood that the offender was only liable to the death penalty, but its infliction all depended upon whether there was a jingoistic feeling about at the time, as there was at present in connection with the Boers. In a few months' time, if someone attempted to assassinate the Queen of Holland, it was very likely that £30,000 would be spent in sending troops to South Africa to fight the Boers the proposal would be laughed to scorn. No member of the Government would have courage to propose it, but in the heat of jingoistic feeling the proposal might be accepted, but there was one excellent reason why the amendment should not be given, and they would lose the Bill altogether.

Mr. ROYAL: That was a personal offence.

The HOME SECRETARY: Five times.

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committed many things with respect to King Billy and Queen Mary that would bring them under this clause. The Secretary for Lands: This clause refers to "the Sovereign, and King Billy is not the sovereign."

Mr. Dawson: If the Secretary for Lands attempted the life of, say, the sovereign king under this clause, it would be class legislation. With regard to subsection 9, he held that they had arrived at that stage of civilisation in Queensland where they could do without such a provision, even if they could not do without it in the older colonies or in England. The subsection said: "Violates, whether with her consent or not, a Queen Consort, or the wife of the eldest son, and heir apparent, for the time being, of the Sovereign." It was absurd to re-enact a provision of that description in this nineteenth century, and he was very much puzzled to understand how it had ever found a place on the statute-book here and there else. Punishment for offences of that kind was always based on the principle that the offender should be punished if the other party did not consent, and they had already determined in that Code that that particular offence against an ordinary person, even if committed against the consent of the person concerned, would no longer be punishable with death. Why then, in the name of goodness, should they retain the death penalty in this particular case, even if the offence was committed with the consent of the other party? As a matter of fact, he was inclined to think that the offender ought to be punishable with very severe penalties if he did not obey orders, and he certainly objected to the retention of that proviso.

The Secretary for Public Lands (Hon. D. H. Daleymlple, Macauley): The leader of the Opposition appeared in rather a sportive mood, and had argued that under certain circumstances a man might fire a blank cartridge, not because he wanted to do any execution, but because he wanted to call attention to grievances. He ventured to say that the whole of that debate might very fairly be called a blank cartridge debate. The reason why subsection 9 was not by any stretch of possibility ever likely to take up a very long time. It was quite evident if anyone dealt with the Code in that spirit, and considered themselves responsible for every law which had been on the statute-book, instead of practically accepting the law as it stood, and leaving themselves perfect liberty to amend it at a future time, they might practically rank themselves among those who did not want a codification of the law. They could not expect that every law would commend itself to the approval of every hon. member. With some other hon. members, who had spoken, he agreed that it was a more serious offence to make war on the Sovereign than it was to make war on an ordinary person, because the Sovereign was the representative or embodiment of all; and, as pointed out by the Home Secretary, a person who occupied a distinguished public position ran a great deal more risk than a private individual. They might call some persons a sovereign if they liked, but they could have an elective sovereign and call him a president; and he thought that where the risk was so great the penalty should remain as it was. It certainly had not deterred some people from slaughtering men of great value to society, such as Carey and Lincoln had been, but it might deter others who, if they did not run any risk of incurring the death penalty, would attempt to take valuable lives. It was said that in times past some good men had been rebels no rebel should be punished by death; but if that argument was sound it could be carried to this: that because some people had shot others in bygone times, and had perhaps been justified in doing it, therefore no one who shot anyone at the present time should be punished for it. If it was true that because somebody unjustly committed treason long ago, and was successful in it—

Mr. Dawson: It is not treason then.

The Secretary for Public Lands: No, it was not treason then, and because of that hon. members were contending that the penalty for treason should not be inflicted where it did not succeed. Practically what was asked was that every man should be allowed to take the law into his own hands—because some people in the past had rightly rebelled everyone in a constitutionally governed country, such as this, where they had all kinds of means for the redress of grievances that were considered legitimate, had the right to levy his own law. Upon the Governor or anybody else, and such an offence was to be accounted a very light matter.

Mr. Dawson: I do not want to punish anyone who makes war upon me.

The Secretary for Public Lands was no more likely to talk anyone to death than the hon. member who interrupted him. Hon. members were very anxious to raise a debate upon a clause which they confessed had not the slightest practical application in this colony, and they therefore wanted to talk merely for talk's sake.

Mr. Lesina (Clermont): If it was true that the clause would have no practical application in this colony, why should they be asked to pile up statutes which would be impoerative? The argument used in favour of hanging a person for treason was the same old argument used in all times for torturing people in all kinds of ways. Romilly, in his book on the death penalty or anybody else, and such an offence was to be accounted a very light matter.

The Home Secretary: How many more would chance it if there was not that penalty?

Mr. Lesina: I will tell you how many more.

The Home Secretary: You cannot; nobody can.

Mr. Lesina: So far as sovereigns were concerned, whether kings, queens, sultans, president, a czar, a czar, a shah, or czars, this had been the bloodiest century in all their career, for up to the present time about twenty-five rulers had been assassinated in the present century. In every country in the world, bar Switzerland, the law upon the Governor, a sultan, or a czar was not at all deterred by the fact that he was going to be hanged. He had made up his mind from the earliest day that he was going to die, and that the offence was punishable by death, but he weighed against the penalty the fact that he killed a king.

The Home Secretary: You cannot; nobody can.
deter him, because he would be perfectly satisfied if he could achieve his aim. The men who became regicides were lunatics and political fanatics, and there was no possible way of restraining them. They would do what they did in spite of a thousand deaths. He had shown already that Lombe had pointed out that although the death penalty and the environment had all been criminal, and the death penalty had no effect in such cases at all.

It was like putting up the bogy of fanaticism in our time in order to frightened people from voting for the Labour party. He saw no necessity for the clause, and, while he would not break his heart if it was carried, if there was a division he would vote against it. Whether the penalty was maintained or not, the Queen's life would be in no way endangered.

Mr. J. HAMILTON (Cook): The argument of the hon. member for Clermont was that the penalty of death was undesirable because it would not deter anyone who wished to kill a king, and in Great Britain. According to that argument they should abolish capital punishment, because, if a man wanted to commit murder, he would commit murder. If a man wanted to rob a bank, he would do so, and therefore they should not imprison for robbery. If a man wished to get drunk, he would get drunk, and therefore they should not fine a man for getting drunk. The Bill was simply a codification of the existing criminal law, and except in a few particulars, it did not amend the present law. It simply expressed, in plain language which could be understood by everyone, the existing law. This Bill was a condensation of 78 Acts, which would thereby be applied to anyone else. As a matter of fact, they would simply be interminable. Their proper course was to first codify the law into a condensed form and then if it was desired to amend it in any way to do so by introducing a Bill containing the amendments.

Mr. LEAHY (Bulloo) understood the Home Secretary, before dinner, to offer to accept the amendment.

The HOME SECRETARY: Certainly not. I merely put the hon. member right as to the form of his amendment.

Mr. LEAHY: At all events there seemed to be little difference between the 7th subsection and subsection (c) of clause 39, especially the latter portion of it which said, "and manifests such intention by any overt act." Yet the penalty in the one case was death, and in the other imprisonment with hard labour for life. He saw no reason why the Home Secretary should object to the amendment, and at the same time there was no reason why the other side should be particularly anxious about it. It was very unlikely ever to come into force in Queensland, because neither the Sovereign nor the Prince of Wales was likely to come here, and it did not seem to be an amendment. Offences always came now under the head of treason felony, which was punished with transportation or something else, but not death.

Mr. McDonnell: What about 1867?

Mr. LEAHY: That was nearly half a-century ago, and that was not for treason. It was a charge of murder. The Manchester case was treason felony, where they fired through a carriage window and killed a policeman for treason.

Mr. McDonnell: I do not mean that case. I mean the Fenian riots in 1867.

Mr. LEAHY: There was no one hung for Fenian riots in 1867.

Mr. McDonnell: They were sentenced to death.

Mr. LEAHY: No, they were tried under the treason felony clauses, and not for treason at all.

He had risen to ask the Home Secretary to give a little more explanation of the information he had given when he had risen in the first instance after dinner, when he had said that if they amended that section in the direction indicated the home courts would probably step in.

The HOME SECRETARY: No. The hon. member again misunderstood me.

Mr. LEAHY: The hon. gentleman said that the home authorities would come in, and not allow the clause to pass. Either they had the power to repeal those English statutes or they had not. If they had the power, they could do it, and the English Government could not step in over their heads. If they had not the power to repeal those statutes, what was the use of going on with the matter, and repealing all the provisions mentioned in the 2nd schedule? He would ask the hon. member what authority they had for repealing those statutes so far as they related to Queensland?

The HOME SECRETARY called the attention of hon. members to the fact that there were 706 clauses in the Code, and if they were going to make any attempt to generally amend the criminal law of the colony, it would take not one short session but ten sessions, and long ones at that. The Code—with a few exceptions in which the law was practically obsolete and a dead letter—was a codification of the existing law. It was gathered from Imperial statutes passed long before Australians had a right to make their own laws, from statutes passed in New South Wales prior to the separation of Queensland, and from laws passed by the legislature of Queensland. If they were going to discuss every case in which an hon. member thought the criminal law should be amended, they would be merely wasting their time. In the same way, it would be a waste of time to go any further with the Bill if they carried that amendment, because, having regard to its peculiar nature, the Governor would feel himself constrained to reserve it for the Royal assent. Hon. members would see that it was extremely probable that the Royal assent would be refused by the Secretary of State. In that case the Criminal Code would not be adopted at all; we should be left exactly where we were now, and death would be the penalty for all these offences. No progress would have been made, and a great deal of time would have been wasted.

Mr. LEAHY: Suppose we passed this, what condition would we be in with regard to the English law?

The HOME SECRETARY: Certain some of the offences mentioned in the clause could be committed in Australia, but, as the hon. member for Bulloo had said, it was a great many years since anybody suffered the death penalty for treason in Great Britain. Things were written and said which in almost any other country in the world were regarded as treasonable, but which in Great Britain and the colonies were treated with the contempt they deserved.

Mr. LEAHY: Suppose we passed this, what condition would we be in with regard to the English law?
understand that in the event of anybody committing an act which would bring him under the provisions of any of these subsections—instigating an invasion or assisting a foreign enemy, for instance—the Imperial authorities might consider it desirable to step in and prosecute under the Imperial law in order that something more than a penalty of six months might be inflicted.

Mr. LEARY: That is, the Imperial law is still in force in this colony.

The HOME SECRETARY: Undoubtedly; and unless we had some such section as this in our Code we could not prosecute for treason. It was the English law that was practically in force here at this moment. The first few subsections of the clause dated back to a statute of Edward III. We could repeal an Imperial statute so far as it affected the interests of the colony, if it did not affect Imperial interests; but this did affect Imperial interests, and therefore he believed the Royal assent would be refused. If we were to alter it—

Mr. LEARY: Where is the authority?

The HOME SECRETARY: The right to legislate carried with it the right to repeal the law for the time being, and they had authority to do that so long as it did not affect Imperial interests. He had been led by interjections into a somewhat academic discussion of the question, but he would remind hon. members again that the great objection there was to interfere with this particular clause as affecting the Sovereign and her rights, that if they were going to make any attempt in this Code to discuss the principles of criminal law and especially to import amendments which involved debatable matter, it was certain that it was futile to attempt to pass the Code, and it had better be dropped. He might point out that by passing this hon. members would not be prevented from bringing forward next session any amendment of the criminal law they thought advisable.

Mr. DUNSFORD had no desire to open up a discussion when he moved the amendment.

The HOME SECRETARY: Quite so.

Mr. DUNSFORD: He had already said, when discussing the punishments coming under clause 3, that it would not be wise or right to go over the ground again; but he would like to say, with regard to the hon. gentleman's statement that the amendments were carried the Bill might be reserved for the Royal assent, that he did not think that ought to influence hon. members at all in coming to a decision upon this matter. He thought they should not allow any of these outside influences or possibilities to interfere with their right or duty in that Committee. If hon. members thought it wise to remove the death penalty, they should do so, no matter what the consequences were, because if the stand was taken that all portions of the British Empire were continuing to inflict the death penalty, there would be no opportunity of removing it until Great Britain abolished it. He affirmed that they were justified in moving in the direction he had indicated, but the wisdom of so doing of course remained with the Committee. He did not look upon treason as a light crime, and he had not referred to that portion of the clause which dealt with the killing of the Sovereign, still any person who killed anybody might be proceeded against under other clauses in the Code, and could receive the death penalty, if that were the penalty for killing. As it had already been decided that the death penalty would be retained, so far as many hon. members thought that death should be the penalty for treason, he would not call for a division on his proposed amendment.

Mr. LESINA said the Home Secretary said the Code was only a codification of the old law, but it was more than that. The Attorney-General admitted that it was also an alteration of the old law.

The HOME SECRETARY: I said so, too.

Mr. LESINA: I never heard you say that. Amendment (Mr. Dunsford's) to omit the words "the punishment of death" put and negatived.

Clauses 37 and 38 put and passed.

On clause 39—"Treasonable crimes"—

Mr. LESINA asked: If a man left Queensland to-day, intimating his intention of going to South Africa, and he joined the Boers' forces and fought against Her Majesty's forces, would he be guilty of a treasonable crime?

The HOME SECRETARY: He might be guilty of that in South Africa, but not here.

Clauses put and passed.

On clause 40 put and passed.

On clause 41—"Inciting to mutiny"—

Mr. LESINA asked: If a striker took place in Brisbane and rapidly extended to 10,000 or 15,000 men, and the military were called out, and any person attempted to influence any member or members of that force to throw down their rifles and refuse to fire on the people, would he be guilty of inciting to mutiny? He had in mind the strike in 1891 in New South Wales, when the Naval Brigade threw down their arms and refused to fire on the people.

The HOME SECRETARY: He could scarcely conceive the case instance by the hon. member possible. It was altogether too absurd. He would like to know if there was any prosecution in the case cited?

Mr. LESINA: Probably it was very hard to get the person who incited.

Clauses put and passed.

On clause 44—"Definition of seditious intention"—

Mr. STEWART (Rockingham North): This was a very comprehensive clause, and one under which subjects who were perfectly loyal to the country might find themselves in difficulties. Subsection (d) said—

To bring the Sovereign into hatred or contempt. Then subsection (5) said—

To excite discontent against the Sovereign or the Government or Constitution of the United Kingdom or of Queensland as by law established, or against either House of Parliament of the United Kingdom or of Queensland, or against the administration of justice.

What did that mean? There were a large number of people in the colony who were dissatisfied with regard to the present Government. Would they, under this subsection, be held to be seditious subjects? Then subsections (d) and (e) went on—

To raise discontent or dissatisfaction amongst Her Majesty's subjects; To promote feelings of ill-will and enmity between different classes of Her Majesty's subjects.

The HOME SECRETARY: There is no penalty for a seditious intention.

Mr. STEWART thought hon. members ought to have a clear definition of what all this meant. He noticed that seditious intention was defined in clause 45; and he therefore suggested the transposition of clauses 44 and 45, in order to give members an opportunity of ascertaining what was meant by seditious intention.

The HOME SECRETARY: No doubt the suggestion of the hon. member was a very valuable one, but he preferred to be guided by the ideas of the eminent legal gentlemen who had drafted the Code. He would not be likely to be in error if he followed the suggestion of the hon. member than if he adhered to the clause. Clause 44 merely defined what was a seditious intention, and clause 45 gave every protection in this respect, by defining the circumstances under which the law
would not apply. If the hon. member had been placed in a good faith to show that the Government were mistaken in the policy of the country, that would not be seditionous intention. Clause 46 showed what must be done with a seditionist in order to bring the matter under the provisions of the criminal law.

Mr. LESINA: The section was directed to a large extent against newspapers that preached what was popularly called sedition; that preached the Theocratic or the Republicanism. He did not think such a provision was required, but if required it should be modified in one or two respects. He did not think that what was called sedition, in the popular acceptation of the term, was such a great crime as it was once considered to be, and yet under that modified law the person writing it was liable to seven years' imprisonment. What was sedition writing? If he were to take up the genealogy of the present reigning family and wrote several columns about them in a public newspaper, discussing their public and private character, and so on, it would be called sedition writing, for which he might get seven years. As the clause was deliberately framed against radicalism and republicanism, he entered his protest against it, if he could do no more.

Mr. STEWART would point out that it would be much more convenient if all the clauses dealing with sedition were together. Clauses 44, 45, and 46 dealt with sedition, but it was not until they came to clause 52 that they had a definition of it.

Clause put and passed.

On clause 53, as follows—

Any person who, without such justification or excuse as would be sufficient in the case of the defamation of a private person, publishes anything intended to be read, or any sign or visible representation, tending to expose to hatred or contempt the estamination of the person in any way exercising sovereign authority over that State, is guilty of a misdemeanour, and is liable to imprisonment for two years.

Mr. LESINA said the clause was a remarkable one, but he doubted whether it was absolutely necessary. What was understood by "any prince or person exercising sovereign authority over that State, is guilty of a misdemeanour, and is liable to imprisonment for two years"?

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The CHAIRMAN: The clause can be negatived.

Clauses put and passed.

On clause 54—Interference with Governor or Ministers—

Mr. LESINA asked if this provided for the protection of Sir W. Griffith, who was acting as Governor in the absence of Lord Lamington, and who would probably be required to act for six or twelve months, during which time any of these offences might be committed. Was he not protected as Lord Lamington or any other Governor would be under this section?

The HOME SECRETARY: If the hon. member would refer to the Acts Shortening Act he would find that the Governor was protected.

Mr. LESINA: Any member he protected was all right. He would not like to see him unprotected.

Clauses put and passed.

On clause 56, as follows—

UNLAWFUL ASSEMBLIES—INTERFERENCE WITH THE PEACE.

Definitions.

When three or more persons with intent to carry out some common purpose, assemble in such a manner, or being assembled, conduct themselves in such a manner, as to cause persons in the neighbourhood to fear or reasonable grounds that the persons so assembled will tumultuously disturb the peace, or will by such assembly medleyly and without any reasonable occasion provoke or cause persons tumultuously to disturb the peace, they are an unlawful assembly.

It is immaterial that the original assembling was lawful if, being assembled, they conduct themselves with a common purpose in such a manner as aforesaid.

An assembly of three or more persons who assemble for the purpose of protecting the house of any one of them against persons threatening to break and enter the house in order to commit an indictable offence therein is not an unlawful assembly.

When an unlawful assembly has begun to set at enmity which would be a danger or menace to the public peace. This clause took away the right which had been won at great self-sacrifice by those who had gone before, and which involved the preservation of the liberties of the people to conscriptually govern themselves—the right of free assembly in public meeting to give free expression to their opinions. Who were to be the judges of the unlawful intent?

The HOME SECRETARY: The jury.

Mr. LESINA: A meeting was liable to be broken up and its leader arrested before it came to a jury. By this clause, the Government of the day could stop their political opponents from holding any meeting at all. They had to close up the Bill and go on to another.

Mr. GIVENS: The clause was designed to prevent riots and rioting. Had the clause been put in the Bill as it was practically obsolete, for it merely put in a simple form what was already on the statute book, with some improvements.

Mr. LESINA: The Home Secretary must know that so long as the law was on the statute book, it was impossible to enforce it if a judge or magistrate could be found who would apply it. The combination laws were said to be obsolete, but the moment industrial complications occurred the authorities raked up the Act of George IV, and sent men, by virtue of its provisions, to St. Helena. He was frightened of these obsolete enactments that were so harmless. These things were loaded and might go off before long. They might go off when they were not thinking.

Mr. GIVENS: The Home Secretary had moved the omission of the clause; but, as he had not thought it fit to do so, he would move that it be struck out.

The HOME SECRETARY: Bring in a repealing Bill next session.

Mr. STEWART thought the hon. member for Clarendon would have moved the omission of the clause; but, as he had not thought it fit to do so, he would move that it be struck out.

The CHAIRMAN: The clause can be negatived.

Clauses put and passed.

On clause 61, as follows—

UNLAWFUL ASSEMBLIES—BREACHES OF THE PEACE.

Definitions.

When three or more persons with intent to carry out some common purpose, assemble in such a manner, or, being assembled, conduct themselves in such a manner, as to cause persons in the neighbourhood to fear or reasonable grounds that the persons so assembled will tumultuously disturb the peace, or will by such assembly medleyly and without any reasonable occasion provoke or cause persons tumultuously to disturb the peace, they are an unlawful assembly.

It is immaterial that the original assembling was lawful if, being assembled, they conduct themselves with a common purpose in such a manner as aforesaid.

An assembly of three or more persons who assemble for the purpose of protecting the house of any one of them against persons threatening to break and enter the house in order to commit an indictable offence therein is not an unlawful assembly.

When an unlawful assembly has begun to set at enmity which would be a danger or menace to the public peace. This clause took away the right which had been won at great self-sacrifice by those who had gone before, and which involved the preservation of the liberties of the people to conscriptually govern themselves—the right of free assembly in public meeting to give free expression to their opinions. Who were to be the judges of the unlawful intent?

The HOME SECRETARY: The jury.

Mr. GIVENS: A meeting was liable to be broken up and its leader arrested before it came to a jury. By this clause, the Government of the day could stop their political opponents from holding any meeting at all. They had to close up the Bill and go on to another.

Mr. LESINA: A meeting was liable to be broken up and its leader arrested before it came to a jury. By this clause, the Government of the day could stop their political opponents from holding any meeting at all. They had to close up the Bill and go on to another.
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as the great safety valve of the British people in all countries under the British flag, and prevented them from engaging in armed rebellion, such as, unfortunately, had been the case in other countries. All their wrongs had been redressed mainly by that means; and why should they retain this clause, and make it penal for people to assemble to ventilate their grievances and rectify their wrongs? He hoped the clause would be omitted.

The HOME SECRETARY did not quite follow the hon. member when he talked about breaking up an unlawful assembly. There was nothing in the clause about that. It was merely declaratory of what was an unlawful assembly.

Mr. GLASSEY: Has such a thing never been done in Queensland?

The HOME SECRETARY: There was breaking up a riot by reading the Riot Act. That was provided for in the section to which the hon. member had referred. Surely the hon. member had read that to break up a riot the Riot Act had to be read?

An HONOURABLE MEMBER: Before you can fire on the mob.

Mr. GIVENS: Has not a policeman the right, on the ground that you are creating a disturbance, to order you to disperse?

The HOME SECRETARY: How could a man disperse himself? This clause had nothing to do with creating a disturbance in the street. It dealt with a totally different thing—an unlawful assembly.

Mr. GIVENS: They do it.

The HOME SECRETARY: Tell people to "move on." They can do that under the municipal laws.

Mr. GIVENS: What about the following clauses?

The HOME SECRETARY: They would deal with them when they came to them. This clause was the law as it stood. They were not revising the criminal law. If the hon. member had any feeling about any particular clause let him bring it in a Bill next session to repeal it. He might then get some support, but this was not the time to deal with the matter.

Mr. GIVENS: Why not accept it? It is a reasonable thing.

The HOME SECRETARY: But was it desirable that they should commence revising the criminal law, while they were codifying it? It would take several sessions to do that, and if they once began it they could not get through the Code this session. He had a good mind to change himself and subject of amendments, but he did not propose to air them, because that was not the proper time.

Mr. GIVENS: What amendments are here already?

The HOME SECRETARY: Very few.

Mr. GIVENS: The judges have the right to amend the law, but we have not.

The HOME SECRETARY: The judges had made a few amendments for the purpose of assisting Parliament to pass a criminal code. That was their function. Let them now incorporate the law as it stood. It was competent for any hon. member to introduce amending Bills at any time, if so desired, and no doubt there were many members who would support such amendments as were proposed.

Mr. GLASSEY (Hansardberg): He had no desire to obstruct the passage of the Bill, but he wished to ask: Supposing the clause was deleted, would it injure the Bill? The fact merely that the clause was an embodiment of the present law did not justify them in retaining it.

The HOME SECRETARY: You will have to put something in its place.

Mr. GLASSEY thought the two or three provisions which followed were ample for all requirements. This clause was a very injurious one to retain in the Bill, and if they could remove it without injuring the Bill, and at the same time confer a benefit on the community, it would be a wise thing to do.

The HOME SECRETARY really thought hon. members who were criticising the clause did not realise what it meant. Those who had studied the Code would see that its scheme was to make a definition which simplified the later enactments in the chapter. For instance, there was a definition of rioting. Take that out and surely the hon. member would see that there must be something inserted in its place! Would he strike out everything in connection with rioting and allow it to become lawful?

Mr. GLASSEY: I rose to ask if the removal of the clause would be injurious to the Bill?

The HOME SECRETARY: And I say, yes.

Mr. GLASSEY: He had no desire to injure the Bill, but at the same time he would ask was it right to retain a provision for no other reason than that it was the present law?

Mr. GIVENS pointed out that clause 64 defined what rioting was, and it also defined a breach of the peace. Clause 63 provided punishment, not for committing the offence at all, but said "conduct themselves in such a manner as to cause persons in the neighbourhood to fear on reasonable grounds that the persons so assembled will tumultuously disturb the peace." He contended that before the law had any right to punish him he must have committed an offence, and that he should not be punished simply because persons might fear, reasonably or otherwise, that he was going to commit an offence. The very fact that he was at a meeting of citizens for the discussion of a public grievance might excite his political opponents very conveniently to fear, and because of their fear of what he might do he was to be punished by twelve months imprisonment.

The HOME SECRETARY: Not unless the fear is grounded on reason.

Mr. GIVENS: Who was to decide that?

The HOME SECRETARY: The jury.

Mr. GIVENS: There had been such a thing as political bias among juries.

The HOME SECRETARY: Then let us abolish juries.

Mr. GIVENS: No. He believed in the jury system, but he did not believe in this clause. The cru of the matter was this, and every reasonable-minded man would see it at once: before the law had any right to punish a man for doing wrong the wrong must be done. The law should not punish a man because another man was afraid he was going to do a wrong thing. It would come with a very good grace if the hon. gentleman would consent to the deletion of the clause.

The HOME SECRETARY: Then you must take out the punishment for threatening language.

Mr. GIVENS: That was an actual offence in itself.

The HOME SECRETARY: It is a threat of violence. It is only an offence created by law, just as this is.

Mr. GIVENS was surprised at the laxity of the hon. gentleman's definitions. Threatening language was an offence, in so much as it was an actual expression of intention to do an unlawful act. If he threatened to shoot a man he was expressing an intention to do an unlawful act, and the law had a perfect right to stop him and prevent him, but the clause before them provided for punishment where a person had not committed an offence at all.

Mr. DAWSON (Charteris Tozer) was against his colleagues in this matter. He thought the
provision ought to be retained, because it was a protection against riot. The first paragraph of the clause said that "when three or
more persons assembl[ed] with intent to carry out some common purpose," they were "an unlawful assembly." That Committee was an unlawful assembly at the present time, because there were just three persons on the other side, and they were there with intent to carry out a common purpose, to incite members on his side to riot—and he thought it was the bounden duty of the Chair
man to read the Riot Act. He would like to know whether if that clause were excised it would really make any difference in the law, because as he understood it the Code was merely an instruction to the judges, and not an alteration of the law at all.

* The HOME SECRETARY: The hon. member was correct. It was immaterial whether that provision were retained or not, because it was a part of the common law. It was not the subject matter of any statute; it was common law, but the Code in effect repealed the common law. Mr. LESINA (Gleson) wished to know if any amendments made in the Code had no effect? They had struck out a provision with regard to imprisonment in irons, and he should like to know if that would still be the law, notwithstanding the amendment which had been agreed to by the Committee.

* The HOME SECRETARY: The hon. member surely clearly understood the difference between statute law and common law. The common law was the unwritten law, and this provision was merely putting into words what was known as the common law of the land. There were certain statutes mentioned in the schedule at the end of the Code which would be repealed. In order to effect what the hon. member desired, it would be necessary to bring in a Bill specifically negativing the law to which he objected, as was done here.

Mr. GIVENS (Gives) moved that the clause be amended by the omission of all words after the word "to," in the 3rd line, down to the word "un tumultuously." The clause would then read—

When three or more persons, with intent to carry out a common purpose, assembl[ed] in such a manner, or being assembl[ed], conduct themselves in such a manner, as to tumultuously disturb the peace, or will by tumultuous conduct injure or endanger the person or property of such other persons, to tumultuously disturb the peace, etc. That amendment would simply alter the definition, and make a person liable to punishment for an actual offence, and not liable, as it was at present stood, to punishment because some fear existed in another person's mind. He hoped the hon. gentleman in charge of the Bill would accept the amendment.

The HOME SECRETARY really did not understand what the hon. member was driving at. With the amendment now proposed the clause would be ungrammatical, because it would read, "When three or more persons," etc., "tumultuously disturb the peace, or will by such assembly needlessly and without any reasonable occasion provoke other persons tumultuously to disturb the peace," etc. That was not sense, and he would like to know if the hon. member proposed to move any further amendment.

Mr. GIVENS: I intend to propose a further amendment. The HOME SECRETARY: Perhaps the hon. member would explain what that further amendment would be, because he had great deal hinged upon it. He did not say he was going to accept it by any means.

Mr. GIVENS: After dealing with the first amendment he intended to propose a further amendment to the effect that it should apply to persons whose conduct was such as to induce persons to tumultuously disturb the peace. If the hon. gentleman preferred it, he was prepared to move the omission of all the words down to the word "tumultuously" in the 1st line.

The HOME SECRETARY: I cannot accept any amendment in the shape of a mutilation. Mr. GIVENS contended that it was not a mutilation, but making provision that a man should not be punished for some fear existing in some other man's mind.

The SECRETARY FOR PUBLIC LANDS: "On reasonable grounds." The jury will have to determine the intent. Mr. GIVENS: There was ample proof in this colony, and in the history of the law courts of Great Britain, that in exciting times, when political or other feeling ran high, juries were unconsciously biased, and gross injustice might in that way be committed.

The HOME SECRETARY: The hon. member's proposed amendments would render the 1st paragraph of the clause downright nonsense, because what he proposed would make such an assemblage of persons a riot at once.

Mr. GIVENS: Is an "unlawful assembly" and a "riot" the same thing? The HOME SECRETARY: No, but the hon. member proposed to make it a riot, and he might just as well cut out the words he proposed altogether and say that a riot should be the only offence dealt with. If hon. members were going to bring up their views upon criminal law amendment upon every clause, they could not hope to get the measure through. He thought it had been admitted during the all-night sitting that the questions then dealt with were the only contentious matters in the Bill.

Mr. DAWSON: You were not told that. You were told they were the most contentious clauses in the Bill. So far as I am concerned, I would sooner have the Bill as it is without the amendment than lose it.

The HOME SECRETARY: Quite so. That was his own opinion. Probably he had as strong views upon criminal law amendment as any member of the Committee, but he was not on that account going to block a Code which embodied the law as it stood, when, if anyone felt strongly upon a particular amendment, he could introduce a Bill to give effect to his views. He could not accept the further amendments.

Amendment put and negatived; and clause put and passed.

On clause 62—"Punishment of unlawful assembly." Mr. LESINA moved the omission of the words, "one year," the term of imprisonment provided for, with a view of inserting the words, "six months." Mr. JENKINSON (Wide Bay) suggested that the hon. member might agree to the amendment of the clause so as to provide that the term of imprisonment should be "for a period not exceeding one year."

Amendment put and negatived; and clause put and passed.

Clause 63—"Punishment of riot,"—put and passed.

On clause 64—"Rioters remaining after proclamation to disperse." Mr. STEWART (Rockhampton North) thought that imprisonment for life with hard labour, with or without solitary confinement, was too severe a punishment for the crime of riot. The limit should be seven years, and he accordingly moved the omission of the word "life" with a view to inserting the words "seven years."

The HOME SECRETARY could not accept the amendment. The offence of refusing to disperse when called upon to do so by the proper
authority was a very different offence from mere rioting. It meant that the time had come for the military to be called into requisition and ordered to fire. Having in view the fact that the lives of scores of people might depend upon the action taken by persons who remained in defiance of the authority which required them to disperse, imprisonment for life was not too great a maximum penalty to impose. The punishment for riot was imprisonment for three years, under clause 63, but this clause dealt with a much more serious matter. There was only one instance in the history of Queensland when the Riot Act had to be read.

Mr. STEWART still held that the punishment was too extreme. That had been very clearly shown in most of the instances which had occurred of recent years. In the United States of America a number of foremen had been ordered to disperse, although they did not understand what the magistrate was saying. The military had been ordered to fire, and over twenty of them had been shot dead.

The HOME SECRETARY: We are not in America. They have shooting there, and all sorts of things.

Mr. STEWART: They came very near being in the same position. They know how a certain Government might intrust orders to the police as to how they were to act in particular circumstances, and that the very greatest care had to be exercised in the matter. There had been a case in Great Britain where, through the stupidity of the magistrate who read the Riot Act, an innocent man had been shot dead. The people did not disperse, and the military were ordered to fire. A magistrate might get up and read a document in the face of a noisy multitude; no person would know exactly what he read, and if the people did not disperse on the instant, they would be liable to penal servitude for life, and to be fined upon by the military and executed without trial. The whole clause required revision.

The HOME SECRETARY: The hon. member had himself furnished the strongest argument why an extreme penalty should be inflicted when he told them how an innocent person had suffered death through the refusal of certain persons to disperse when called upon by the lawful authority.

Mr. STEWART: No; through the stupidity of the magistrate.

The HOME SECRETARY: It was all very well for the hon. member to say that, but we might as well say that every person who was sentenced to death through the stupidity of the judge or jury. A certain constituted authority must control people who were assembled tumultuously, and if those persons refused to obey that constituted authority, they were endangering the lives, not of themselves, but of innocent persons who mixed with them.

Amendment put and negatived.

Mr. STEWART: A prosecution for any of the crimes defined in that section must be begun within a year after the crime was committed. In matters of that kind three months would be quite long enough. Indeed, it should be reduced to one month, but as the Home Secretary was not likely to accept such a short period, he moved the omission of the words "a year" with the view of inserting the words "three months." * The HOME SECRETARY: That was a great concession to the accused, as there was ordinarily no statutory limitation with regard to the institution of criminal proceedings. In a case of murder a person could be prosecuted and convicted at any time, and so for almost every criminal offence it was certainly not likely that a prosecution under the clause would be instituted after the lapse of many months except under very special circumstances, but it might be impossible to identify a man for some months. As long as he kept out of the way for that period he would go scot-free. [9.30 p.m.] and it was not desirable to narrow down the period of limitation.

Mr. STEWART: If the contention of the hon. gentleman was correct there should be no limitation at all.

The HOME SECRETARY: This is what the law is now.

Mr. STEWART: With regard to identification, if it was not possible to get evidence on the spot with regard to rioting, when the matter was warm, it would not be so easy to get it afterwards; and the temptation to falsify evidence afterwards would be so great that the chance of an innocent person being convicted would be much greater than if proceedings were taken within three months. They knew how easy it was for some people to identify a man. Did the hon. member not remember how many witnesses identified Burgess as the man at the slippins on the night of the Gatton murders? And they knew that if a reward were offered for the discovery or arrest of any criminal, numbers of people were prepared to come forward and smear anything, in order to get the reward, if it was big enough. He thought the amendment was so necessary that he believed it would be desirable to divide the Committee on it.

Mr. LESINA (Claymont) thought so too. Suppose in a mining town there was a meeting held in connection with a political contest between two candidates. If three persons were gathered together and this assembly of persons led to any disturbance which would induce some timid shopkeepers to go to a panic-stricken mayor and say they were afraid their premises would be wrecked; the mayor might read the Riot Act at such a distance that the people could not hear him, and the police or the military might charge the crowd, and some persons might be haled before or shot dead. It was a time like that it was not likely that every man would notice his neighbour's features, and identification would be much more difficult twelve months afterwards. Of course if a big reward was offered some person might, as in the Ayrshire Downs case and other cases, take the blood money and swear to any person as the offender, and that person might be sent to gaol for life with hard labour, and perhaps be punished with solitary confinement. He thought it would be a fair thing to reduce the time to three months, and he would support the amendment.

Amendment put and negatived.

Clause put and passed.

On clause 65 of the schedule—"Rioters demolishing buildings, etc."

Mr. MCDONNELL (Fortitude Valley): Under this clause any persons who, being riotously assembled together, unlawfully pulled down or destroyed, or began to pull down or destroy, any building or machinery, or any structure used in farming land, or in carrying on any trade or manufacture, or in conducting the business of a mine, would each be liable to imprisonment with hard labour for life, with or without solitary confinement. Take, for instance, a strike in connection with a factory. If there was a riot, and some of the rioters got into the factory, and in the heat of excitement some machinery was damaged, the men who committed that act would be subject to the penalty he had mentioned. At the time of a strike, when there was great excitement, people would do things which in their cooler moments they would not do, and he thought the penalty was far too great in this case. He therefore moved the omission of all the words after "imprisonment" with the view of inserting the words "for one year." This clause was simply aimed at strikes and lock-outs, and the power of
inflicting such an unreasonable punishment for such an offence should not be placed in the hands of any judge.

The HOME SECRETARY said he could not agree to the amendment. The hon. member said it was aimed at strikes. It might have reference to strikes, and it might have reference to a great many other things. Did the hon. member go so far as to say that there would be no riots unless in connection with strikes?

Mr. HIGGS: We might have political riots.

The SECRETARY FOR AGRICULTURE: In Paris and Milan they wrecked churches the other day.

The HOME SECRETARY: If politicians went into the streets and pulled down buildings or damaged machinery, they ought to get very serious punishment. As the hon. colleague had said, in Paris the other day there were political riots, when they pulled down churches and other buildings and destroyed images. For people who did these things, one year's imprisonment was absurd. The hon. gentleman's excuse for these men was that in these cases they were excited, and they ought not to be punished; but what about the persons injured and the property destroyed? It was not so much the property destroyed, but the liability to bloodshed in these cases that had to be taken into account, because every man was entitled to defend his property, and in doing so lives might be sacrificed. That was the reason why the crime was deemed so serious, and very properly so.

Mr. McDONNELL: I thought the clause was meant to apply to strikes more than anything else. They had had only one or two riots in this colony, and they were in connection with strikes, and on those occasions men, led away by excitement, did things in the heat of the moment that they would not do in their cooler moments.

The SECRETARY FOR PUBLIC LANDS: What about murder in the heat of excitement? Tumultuous rioting again.

Mr. McDONNELL: Of course, they had to deal with things largely on assumptions, but he had facts to bear out his contention, and it would be very unfair to give a man imprisonment for life when buildings or machinery were destroyed in a time of excitement. He hoped hon. members on his side would fight against anything of that sort, and twelve months imprisonment was quite sufficient to meet any cases that might occur under this clause.

Mr. GIVENS: (Ottawa) said the hon. member in charge of the measure had interjected something about the heat of excitement, but he should not go back to that unless he wanted to provoke retaliation. Hon. members on his side desired the passage of the Bill as much as hon. members on the other side.

The HOME SECRETARY: It does not look like it.

Mr. GIVENS: But they objected to be told that they must do so and so. The hon. member in charge of the Bill said that if amendment after amendment was to be moved, it would wreck the Bill.

The HOME SECRETARY: The hon. gentleman said they might as well drop the Bill. He considered that the hon. member desired to provoke retaliation, but he (Mr. Givens) was not going to be provoked. But he might remind the hon. member that if he wanted fight he would get tons of it. One thing that might strike anybody was the disproportion between the penalties for offences against property and offences against the person, and he considered that offences against life or health were of vastly greater importance than those against property. That was an offence against property, yet the maximum penalty was as severe as the maximum penalty for the most atrocious crimes against the person. That was altogether disproportionate, and he should assist the mover of the amendment in his attempt to modify it. He was bound to one year, or five years, or ten years, but there should be some distinction made between crimes against the person and crimes against property.

It was only another illustration of the enormous regard hon. members opposite, particularly he, had for the rights of property as against the sacred rights of the person and the security of the well-being of the individual. The only conclusion he could come to was that they regarded property as of more consequence than human life and human well-being. Was it not reasonable that, on that side, who regarded human life as more important than property, should object to offences against either being put on the same footing; that they should object to an offence against property being punished as severely as an outrage on a respectable young lady. If the punishments prescribed in the codes for offences against the person were severe enough—and there was no doubt they were—then the punishment prescribed for offences against property were far too severe, and it was their duty to try to bring about a real amendment to this effect. He intended to support the amendment, and if nobody else called for a division he should certainly do so. One of the clauses in the Bill was the destruction of any wagon or truck used in conveying material from a mine. From his own knowledge he could say that some of those vehicles were not of the value of $5. Another was the destruction of structures used in farming land, some of which were not worth the half of $25. Yet for each of the same penal offence prescribed for the most atrocious of crimes short of wilful murder—namely, imprisonment for life with hard labour, and with or without solitary confinement. Was that reasonable? Let them follow the old maxim of making the punishment fit the crime. If the Home Secretary, who had said he could not accept the amendment, would suggest any other reasonable amendment of his own they on that side would be prepared to accept it, and get on with the Bill.

The HOME SECRETARY: The hon. member had twitted him with having repeatedly told hon. members that if they moved amendments they would wreck the Bill. He had not used such an expression at all. The hon. member had put those words into his mouth without any justification. The only thing in connection with which he had indicated that the whole object of the Bill might be defeated was with regard to the clause affecting the crime of treason in special reference to the Sovereign. In that case he had pointed out that if the amendment proposed were carried, the Bill would probably be reserved for the Royal assent, which might be refused. If the hon. member had been ingenious, as he ought to have been, he would have put it to the Chamber in that way. The hon. member also made a great point of the difference which, he said, existed between offences of this sort and offences against the person. It must be remembered that this was not more punishment for a person pulling down a building.

Mr. KIRTON: If three persons do it.

The HOME SECRETARY: That would not be sufficient. They must be riotously assembled together. He did not think any jury would find that those persons were riotously assembled together. There must not be less than three persons.

Mr. GIVENS: Why give them the power, is not desirable they should use it?
The HOME SECRETARY: The point was this—It was not an ordinary offence against the person such as pocket-picking, embezzlement, or common larceny, or even burglary. It was the deliberate destruction of a building that the inmate might look upon as property which he was entitled to defend with his life, speaking in the sense that every man's house was his castle. Then it became an offence—if it was riotously done—which practically jeopardised the lives of those who were charged with the care and defence of that property. He said distinctly it might end in bloodshed, and it was with a view of preventing that the extreme penalty was imposed. Therefore he should oppose the amendment. He would point out to hon. members again that if every member was to introduce amendments in every clause, as it appeared to be the policy of hon. members opposite to do—

MEMBERS OF THE OPPOSITION: No, no!

The HOME SECRETARY: Yes, for the last five or six clauses everyone had been objected to. If he were to concede this, every hon. member would want to bring in his particular baby, and there would be no end to it.

Mr. FISHER: He was entirely with the hon. member for Fortitude Valley that the penalty of imprisonment for life was too severe. He was of opinion that the penalty provided in the subsequent clause should be the maximum for offences of this kind. But while he should support the omission of the words proposed to be omitted; he thought twelve months was too little. He should be quite prepared to make the maximum penalty seven years. That would be an ample penalty for the offences mentioned in the section, and those mentioned in clause 66 and those mentioned in clause 66 1/2. In one it was said that a person who had been to pull down a building was liable to imprisonment for life; and in the next any person who damaged a well of the things mentioned in the last preceding section should be liable to imprisonment for seven years. The man who did the actual damage was favoured. The hon. gentleman in charge of the Bill to accept the suggestion of the hon. member for Tennyson for the substitution of seven years, which was an ample penalty for the offences mentioned in the section. What was the difference between the offences mentioned in clause 66 and those mentioned in clause 66 1/2? In one it was said that no person who began to pull down a bridge or building was liable to imprisonment for life, and in the next any person who damaged a well was liable to imprisonment for seven years. The man who did the actual damage was favoured. The hon. member for Fortitude Valley had recognised that one man was not likely to pull down a bridge or building, and the punishment of seven years each would have a sufficiently deterrent effect upon others. The hon. member might well accept the amendment without in any way encouraging crime.

Mr. MC DONNELL (Fortitude Valley): If it would make the amendment more acceptable he would propose, if the blank were created, to insert the words "seven years."

Mr. KIDSTON: Would the Home Secretary indicate whether he was prepared to accept the amendment?

The HOME SECRETARY: The hon. member for Fortitude Valley, Mr. Higgs, had suggested that he should accept seven years as the term of imprisonment. He would like to know hon. members' ideas in reference to the following section. He supposed they would propose to reduce the penalty mentioned there to one year.

Mr. KIDSTON: I do not see any difference in the offence.

The HOME SECRETARY would show what the difference was. A crime of a very serious character might lead to the loss of life; but not at the immediate instance of the person concerned in the crime, and in such a case seven years might not be a sufficient penalty. The offence might be of such a serious character as to involve the necessity for a much higher penalty, but it would be quite competent for the jury to find the extreme guilt of the offence set out in section 66, and no doubt they would, unless the case was a very serious one indeed. Juries were not inclined to lean towards the less serious offenses if they could, and would usually bring in a verdict of manslaughter rather than of murder, if there was the slightest justification for it. That was the difference between the two clauses. Of course there would be two counts to the indictment, and the Crown prosecutor would not be doing his duty unless he specified two counts. Otherwise he would be running the risk of acquittal on the more serious charge.

Mr. FITZGERALD: What is therein this Bill to say you shall put two charges in the same indictment?

The HOME SECRETARY: Did the hon. gentleman contend that it could not be done?

Mr. FITZGERALD: I doubt very much whether it can. They have to make special arrangements with reference to larceny and other cases.

The HOME SECRETARY thought they had better come to a division.

Mr. KIDSTON: The hon. gentleman has not told us whether he will accept the amendment.

The HOME SECRETARY: I said that I could not.

Mr. KIDSTON: The section dealt with the destruction of any bridge, wagon way, or truck. Suppose there was a bit of a riot and one wheel of a wagon was destroyed, a person would be liable to seven years' imprisonment. It seemed to him that the offences named hardly justified such a severe sentence as hard labour for life. It did not think the hon. gentleman should refuse to accept such a reasonable amendment.

Mr. HIGGS: The hon. gentleman must feel that some modification of the penalty was necessary, otherwise he would not have stated that he made the concession hon. members would ask too much. The hon. gentleman mentioned the case of one being killed in consequence of a riot. Clause 235 provided that "except as hereinafter set forth, any person who causes the death of another, directly or indirectly, by any means whatever, is deemed to have killed that other person." That would make the case of killing mentioned by the hon. gentleman.

Mr. FISHER thought the offence of smuggling under arms in a serious building, a serious offence as that of rioters demolishing a building, and yet under clause 68 the former offence was punishable with only seven years' imprisonment.

Question—That the words proposed to be omitted, "with hard labour for life, with or without solitary confinement", stand part of the clause (Mr. McDonnell's amendment)—put; and the Committee divided—

AYES. 25.
Messrs. Dixon, Philip, Picken, Dalrymple, Murray, Chataway, Armstrong, Dowley, Macdonald-Paton, Moore, Fitz, Forsyth, Bond, Mackintosh, Bell, Stobart, Bartholomew, Kerr, Sewell, Hanan, J. Hamilton, Kent, Lesley, Pettis, and O'Connell.

NOs. 19.


FAiLS.

AYEs.—Messrs. T. B. Cyril, Simpson, Campbell, and Smith.

NOs.—Messrs. McDowall, Kerr, Dibbey, and Popany.

Resolved in the affirmative.

Mr. GIVENS (Chairman): As the Committee were not disposed to eliminate the words "with hard labour for life," he thought they should not make the imprisonment for life too severe; and he, therefore, moved the omission of the words, "with or without solitary confinement."
The CHAIRMAN: The Committee have just decided that those words shall stand part of the clause, and the amendment of the hon. member is, therefore, not in order.

Clause put and passed.

Mr. FISHER (Gympie): If the offence mentioned in clause 66 required a heavy penalty he should like to know if the hon. gentleman was satisfied with the penalty of seven years provided in the clause before the Committee.

The HOME SECRETARY: This was a different matter altogether. The offence mentioned in clause 65 was one which meant an invasion of the privacy of private individuals, and that might lead to bloodshed; but the offence of smuggling, being again the community only, was not likely to lead to bloodshed, or private war, if he might use that expression, and that was the reason the penalty was not so severe.

Clause put and passed.

Mr. FISHER asked whether the hon. gentleman was going armed in public without lawful occasion?

The HOME SECRETARY: If the hon. member went to walk down Queen street with a six-chambered revolver, presenting it at every one, he would probably come under that clause, and he might get a couple of years for it, or he might get a week, if it was thought he was weak in his intellect.

Mr. FISHER: Does this mean that the man who discharged firearms at a dwelling-house discharged loaded firearms, was to be liable to imprisonment for life for the pulling down of a farmouse, or destroying 48 worth of machinery, while he would not get that penalty for outrage or rape?

The HOME SECRETARY: How do you make out that there is not a life penalty for rape?

Mr. LESINA: There was, but it was not with solitary confinement as was the case where an offence against property was concerned. It was just what Tennentin said in "The Northern Farmer"—Property, property sticks, and property, property guns.

And he noticed the same thing right through offences against property were heinous offences, and offences against the person were a mere nothing.

The SECRETARY FOR PUBLIC LANDS: The object of the Bill was to prevent general violence, such as was met with occasionally in the United States and in Italy. The general tendency of British people was to be tolerably law-abiding and settle their complaints by an appeal to the law. They did not want great crowds which would Lynch, and they did not want great crimes which would lead to lynching. They should punish such crimes as were likely to bring about wholesale outrages and violence. That was the real distinction.

Mr. STEWART (Rockhampton North): The crime mentioned in that clause came well within the category referred to by the Secretary for Lands. If any offence was likely to promote violence it was the offence of firing point-blank at one's dwelling or at one's self. He hoped the Home Secretary would increase the penalty to three years at least.

Mr. DAWSON: For the very same offences a man may get two years under clause 68 for which he gets one year under clause 71.

Mr. KINGSTON: If you are not going to promote that, I think the Home Secretary should consider the requirements of the case. If a man approached your dwelling, and intimidated you, annoyed you, or threatened you with violence—

The HOME SECRETARY: No; you are not stating it fairly.

Mr. LESINA: The clause was headed "Threatening violence," and under it a person who, with intent to intimidate or annoy, threatened to break or injure a dwelling-house, or with intent to alarm persons in a dwelling-house discharged loaded firearms, was to be liable to one or two years' imprisonment. There might be tender females in the dwelling-house liable to hysterical seizures, and the firing off of firearms in the vicinity of a dwelling-house might be attended with very serious results.

The punishment in that case did not fit the crime, but the real reason was—and the same thread was to be traced throughout the Code—that whenever the offence was against property it was regarded as a sacrilegious offence, and a heavy penalty was provided; while, whenever the offence was against the person, the penalty provided was small. That was why a man who gets a penalty for pulling down a farmouse, or destroying 48 worth of machinery, while he would not get that penalty for outrage or rape?

Mr. LESINA: That was, but it was not with solitary confinement as was the case where an offence against property was concerned. It was just what Tennentin said in "The Northern Farmer"—Property, property sticks, and property, property guns.

And he noticed the same thing right through offences against property were heinous offences, and offences against the person were a mere nothing.

Mr. DAWSON: You could give notice, and postpone it even if the Address to the Queen has not been passed.

Mr. STEWART: The motion is carried, I would like to postpone it even if the Address to the Queen has not been passed.

Mr. DAWSON: I move that this House do now adjourn. The first business to-morrow will be the consideration of the Address to Her Majesty on federation; after that the Criminal Code Bill.

Mr. DAWSON (Charter Tower): Before the motion is carried, I would like to ask the hon. gentleman when he intends to ask the House to sit four days a week. I ask this principally in the interests of private members, who have a great deal of business on the paper, and other business is coming forward, and the sooner we get an additional sitting day the better, giving private members one day out of the four.

The PREMIER: After the Address to Her Majesty has been disposed of, we will consider the advisability of another sitting day—possibly commencing next week.

Mr. DAWSON: The House adjourned at thirteen minutes to 11 o'clock.