had been able to undertake the consideration of a new Local Government Bill; but as we are unable to do so this session the local authorities have pressed for an extension of time to pay their debts to the Government. Of course they will pay interest in the meantime, but the principal moneys due by them will be suspended from the 30th June last for two years. That is all that the Bill contains. It will apply to cases all over the colony. Any local authority that chooses, through its chairman, to make a written application to the Treasurer, can obtain the relief afforded by the Bill, but I do not suppose it will be availed of in more than three or four cases. I believe the extension originally asked for was three years, but the Government, on considering the matter, thought two years would be quite sufficient; and that has been received with satisfaction by those who wanted the extension. I move that the Bill be now read a second time.

The HON. A. NORTON: The weakness of the Bill is that it gives the Governor in Council power to accept or to refuse any applications that may be made. The present Government may be trusted to do everything that is good; but suppose the Powers of Darkness come in which the Hon. Mr. Barlow is so much alarmed about, they might extend the time to one local authority and not to another. It ought to be stated definitely that the time shall be extended to every local authority who asks for the suspension of payment of the principal sum for two years. That would remove all doubt as to what may be done. If I understand the word "may," it means that the Governor in Council has the option of accepting or refusing any applications that may be made. I can well understand that certain local authorities are in difficulties, and I do not wonder at it. The only wonder is that they have been able to get on so well. At the same time the privileges granted under this Bill should be extended to all who felt it necessary to apply for them.

Question put and passed; and the committal of the Bill made an Order of the Day for to-morrow.

CRIMINAL CODE BILL.

SECOND READING—RESUMPTION OF DEBATE.

The HON. P. MACPHERSON: I venture to say that the Bill we are now discussing, dealing with a subject so far-reaching as that of criminal law, is one which deserves the most earnest attention of the legislature. It has redounded to the credit of the judges of this colony that they have spared neither their time nor their ability to endeavour to attain, as far as possible, perfection in its laws. And amongst the judges of the colony—indeed I may say of the Australian colonies—none takes higher rank as an originating and consolidating lawyer than the author of this code. I venture to say that no single judge has ever yet achieved a work involving so much initial labour and so much continued intellectual effort as is evidenced in this code; and I think every dispassionate member must admit that no citizen could have more ably and patriotically applied the talents with which God has endowed him to the service of the State than His Honour the Chief Justice in the great work now before us. His Honour, in his introductory letter to the draft code, has explained at considerable length the difficulty of his task, the sources from which the code has been derived; also explaining its provisions and exhaustively treating upon the various subjects of importance which necessarily arise from it. It is, I contend, but a small favour for the citizens of a State to ask its rulers that their laws should be promulgated in a mode as concise as possible consistent with clearness, and to me it seems surprising that a nation boasting the civilisation of England should still be without a criminal code. We are aware that codes have been drawn by eminent lawyers in that country in recent times, but none of these has yet received the sanction of legislative enactment. I do not think that, although we are a new country, it behoves us exactly to follow the conservatism of the mother country in this respect. The sources of the criminal law are altogether bewildering in their extent. This branch of the law is comprised in hundreds of statutes, in decisions and *dicta* of the judges extending over centuries, and in the work of text writers. So extensive is the field that even the average lawyer, unless he makes a speciality of the work, can have little more than a slight acquaintance with its provisions. The task of consolidating this law is in this colony rendered more difficult by the necessity of sifting out those in statutes which were deemed applicable to the Constitution of the colonies on the 25th July, 1828, when the Charter of Justice came into force in New South Wales. I may state that the criminal law consists of two leading divisions—statute law and common law. Common law is also called the unwritten law. It includes in it the decisions of judges. In fact, common law altogether is what I may call an unknown quantity In the 5th clause of this Bill common law, so far as it is an element of the criminal law, is to all intents and purposes abolished. It is there provided that—

> From and after the coming into operation of the code, no person shall be liable to be tried or punished in Queensland as for an indictable offence or simple offence except under the express provisions of the code or some other statute law of Queensland, or under the express provisions of some statute of the United Kingdom which is in force in Queensland, or which authorises the trial and punishment in Queensland of offenders who have at places not in Queensland committed offences against the laws of the United Kingdom.

I am not aware whether hon. gentlemen have perused the notes which have been freely supplied by His Honour the Chief Justice to the draft Bill. If they have they will have met occasionally with such a note as this opposite a clause of the code: "Probably an offence at common law." Now, considering the wide expanse of this code; considering, as I said, its far reaching extent—reaching, we may say, into every household in the colony; considering, also, that it does away with the common law of England in respect to crime; I say that it is too much for us to pass it upon the *ipse dixit* of one man. I say that the legislature in a matter of such great importance as this, and so highly technical, requires external assistance, and I say that that assistance can best be given by the appointment of a Royal Commission. That commission will strengthen the hands of the legislature, and it will also strengthen the hands of the learned author of this code. We have in this colony abundant means for the formation of such a commission. On the bench of the Supreme Court we have men who, from long practice and experience, are well trained in criminal law. We have no man of greater practical experience in criminal law than His Honour Mr. Justice Real. His Honour Mr Justice Chubb has been himself Attorney-General. His Honour Mr. Justice Cooper has been Attorney-General and also a Crown prosecutor. His Honour Mr. Justice Paul has had thirty years' experience in criminal law. Then we have in the Central district His Honour Mr. Justice Power, who was for years a Crown prosecutor. We have also our District Court bench, amongst whom can be found sufficient material for a commission. It cannot be expected that this Bill will pass this session. There will be

abundant opportunity for a commission to meet during the recess, His Honour the Chief Justice being the chairman of it; and when the Minister for Justice meets the House again with the *imprimatur* of such a commission on this Bill, we can set to work with some assurance to pass it. I say candidly there is not in this House the material for a committee who could at all adequately or satisfactorily deal with a measure of this sort. There are not men with the experience and technical knowledge necessary to properly deal with it. While paying full meed of praise to the admirable effort of intellect which is embodied in this Bill, I cannot say that I can vote for its second reading. I have no intention of voting against the second reading of the Bill, but I hope that the Minister for Justice, looking at the importance of the measure and the difficulty of adequately dealing with it in a satisfactory manner, will take means for adopting the suggestion I have made. There is one other matter which before I sit down I must call attention to. This Bill necessarily contains the provisions of existing Acts, but there is one provision in one Act which seems to me so utterly abhorrent to justice that the sooner it is modified the better. The provision is contained in clause 618 of the code, and it is a re-enactment in the words of section 9 of 60 George III. and 1 George IV., clause 4, and is as follows:—

> If a prosecution for a misdemeanour instituted by the Attorney-General or Solicitor-General in the Supreme Court is not brought to trial within twelve months after the plea of not guilty has been pleaded, the court may, upon the application of any defendant, and after twenty days' notice to the Attorney-General or Solicitor-General, authorise such defendant to bring on the trial, and the defendant may bring on the trial accordingly, unless a *nolle prosequi* is entered in the meantime

That enables the Attorney-General, who, when he lays an information, is supposed to lay it upon evidence which he has before him, to delay proceedings upon that information for twelve months. I say such a provision is scandalous, and in the light of modern criminal practice it is abhorrent to all ideas of justice. I say, further, that in some cases it will produce the direst hardship. I may refer to the cases which have recently been before the courts, most important cases, in which men were made to needlessly suffer because of this provision. A prosecution was kept dangling over their heads, to the intense misery of themselves and their families, for month after month. It is all very well to say that that was done because the Crown had not the evidence ready. The Crown might have had its evidence ready before the information was filed, and certainly ought to have had it ready. If this Bill gets into committee I intend to try and have that period altered to three months, because when passing a code of this description it behoves us to make it as perfect as possible. I know I shall have the good wishes of the Minister for Justice when moving my amendment, and I believe he will agree to the alteration. I should also like to see some provis on which does not appear in this code with reference to the opening of verdicts after prisoners have been convicted. There is an enactment in force in New South Wales to that effect which has proved beneficial, and the attention of the proposed Royal Commission might be called to it. There are also other subjects which suggest themselves to me, but so far as my objection to the code is concerned, I can only say that I hope I shall carry with me the willing assent of the majority of members to the appointment of a competent commission to deal with the whole subject. The code is a necessity in my opinion, and it will pay the country well to appoint a commission, even if its members have to be paid, but I do not believe the learned commissioners will seek for or expect any remuneration for their labour.

The HON. A. J. THYNNE: In referring to this Bill I may at once inform the House that I have not attempted to give it that critical study which its importance deserves. It is quite beyond the reach of individual members of the House to devote the necessary time to its study, and when one observes that it proposes to repeal from 230 to 240 different Acts of Parliament, one gains some idea of the extent of the labour which a critical investigation of the measure would involve. The code itself contains 730 clauses, and could not possibly, with any satisfaction to Parliament, be dealt with in the present session. I concur entirely with what the Hon. Mr. Macpherson has said as to the industry and learning which has been brought to bear on the preparation of this code, and I do not think it would be fair to the learned Chief Justice himself to accept so important a measure as this on his sole responsibility. No man could compile a measure of this kind without some mistake of omission or oversight, and though the learned Chief Justice has given so much of his time and labour to the preparation of this work it would be unreasonable to expect Parliament to accept the code when we have such a short time remaining this session for its proper consideration. If any defect should be found in the code the blame would be thrown upon the learned Chief Justice, and I do not think it is a right thing for Parliament to shelter itself behind the name of any one individual. I quite concur in the suggestion that has been made, that before it is sought to pass this Bill into law it should be referred to a commission whose members must be considered to be specialists in criminal law. There are many points of view from which the different clauses may be looked at, and I am sure it is quite beyond my power for one, and, I have no doubt, beyond the power of other hon. members to devote to it the attention that is necessary to make it so complete that we should feel ourselves free to adopt it. I therefore join in urging that the least consideration which the learned author of the Bill deserves is that of having it confirmed by the best legal assistance that can be obtained in the colony, and when that has been done I think Parliament may very well, in matters of form, accept the ultimate conclusions of the commission, reserving to itself the right to modify or extend the bearings of the code as it may see fit. I do not think it is supposed for a moment that this Bill will pass through Parliament this session. However, it has come before us. We have given it such attention as we are capable of doing, and the discussion of it may do some good, and we may hope for still further good by having it scrutinised by those whose profession brings them continuously in touch with the criminal law.

The HON. A. H. BARLOW: I thought that one of the hon. gentlemen who have spoken would have concluded with a motion; and although, being a member of the Government I cannot move it myself, I would suggest that the motion for the second reading of the Bil might be amended by moving the omission of all the words after "that" with a view of inserting words to the effect that the House recognising the great ability and industry displayed by the Chief Justice in the compilation of this code is of opinion that before it is further submitted to the legislature it should be submitted to competent legal criticism. I do not think that that would offend the learned author of the code or anyone else, and it would prevent the House affirming on its second reading that which it is unwilling to affirm.

I do not know whether such an amendment would meet the views of my hon. colleague, but if it does perhaps some other member may be induced to move it. For a layman to attempt to criticise the code would be an absolute absurdity. If I have not been misinformed I believe the Bills of Exchange Act, of Great Britain, was three years in compilation, and was submitted practically to the whole of the judges. Therefore I do not think anyone could be offended with a motion in the direction I have indicated. Perhaps the hon. gentleman in charge of the House would say whether he would accept such an amendment.

The HON. W. FORREST: I do not profess to be able to criticise this Bill. I travelled through it when it was first published, and arrived at the conclusion which I have now expressed. I would merely suggest that if the Bill is submitted to a Royal Commission it would be advisable to have two or three laymen on it. It is called a Criminal Code Bill, but all the criminals in the country are not lawyers. It would be a mistake for the commission to consist entirely of lawyers, because no one ever heard of two lawyers absolutely agreeing. My object in rising was to move the adjournment of the debate, to give the Minister time to formulate a motion. I quite agree with the views expressed by the Hon. Mr. Barlow, and I now move that the debate be adjourned

The MINISTER FOR JUSTICE: I quite recognise the force of the observations addressed to the House by members who have spoken. This is a Bill of very great magnitude, and one that requires very careful consideration. Anything that tends to that careful consideration will have my approval, and of the suggestions that have been made I certainly think a Royal Commission would be the best, because it would consist of a judge or two—probably the Chief Justice and another Supreme Court judge, perhaps a District Court judge, with Mr. Pinnock, who has had large experience as a metropolitan police magistrate, and there would not be the slightest objection to one or two laymen if the Hon. Mr. Forrest would point to those who have had sufficient criminal experience. I certainly think there is a great deal to be said in favour of the Bill being relegated to some such commission, because evidence could then be taken from the judges and those who are able to speak as to the value of the code. If that were done probably at the beginning of next session we would be in a better position to understand the subject and accept the measure in a way that we cannot do now. I do not think any other body but a Royal Commission would be of any service. It would be no use committing the Bill to a joint committee of both Houses. As it appears to be the unanimous wish of the House, I shall offer no objection to any hon. gentlemen who may choose to move in the direction of submitting the Bill to a Royal Commission.

The HON. A. H. BARLOW: The Hon. Mr. Norton has drawn my attention to my expression "competent legal criticism." I had no intention of criticising the Chief Justice, because, for all I know, the Bill may be absolutely faultless, but if we committed the revision of the Bill to a number of young and inexperienced barristers I should not consider that "competent legal criticism." What I meant was the criticism of mature lawyers who were entitled to express an opinion.

Question put and passed; and the resumption of the debate made an Order of the Day for Tuesday next.

The House adjourned at ten minutes to 5 o'clock until Tuesday next.

LEGISLATIVE ASSEMBLY.

TUESDAY, 15 NOVEMBER, 1898.

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

BRANDS ACT AMENDMENT BILL.

On the motion of the PREMIER, in the absence of the Secretary for Agriculture, leave was given to introduce a Bill to further amend the Brands Act of 1872.

MINING BILL.

RESUMPTION OF COMMITTEE.

Question stated—To add to clause 24 the amendment moved by the Secretary for Mines, namely:—

Provided always that the area shall not exceed twelve acres until the expiration of seven years from the date of the original proclamation constituting the goldfield, nor twenty-five acres until the expiration of fourteen years from the date of the said proclamation.

To which Mr. Browne had moved that the following words be added:—

Provided also that not more than twenty-five acres shall be granted, except where the depth of the ground, difficulty of working, or the expense of erecting mining machinery is likely to be great.

Mr. SIM: After the protracted discussion which had taken place hon. members on his side were prepared to accept a reasonable compromise, which would be hailed as the beginning of better things. He desired to emphasise the fact that the Government had not thought fit to accept a reasonable compromise. He was not a partisan——

The CHAIRMAN: I would now ask the hon. member to seriously discuss the business before the Committee. I would remind him that the Minister has had no opportunity of making a statement since I submitted the question to the Committee.

Mr. BROWNE had no intention of discussing the question at any length. He had proposed the amendment, believing it to be to the best interests of the mining community. They had already passed a clause allowing fifty-acre leases all over Queensland. He had done his best to put in safeguards, and he was not going to say another word on the amendment, but would simply leave it to the Minister. If he declined it, the responsibility would fall upon him. He believed that the indiscriminate granting of fifty-acre leases would be one of the very worst things that had ever happened to Queensland. He thanked the members of his party who had so loyally given way to himself and two or three other hon. members, and allowed them to discuss the question. Considering that the greatest harm would be done by that clause, from this out he intended by all constitutional means to oppose the Bill, and to do his best to throw it out.

Mr. SIM was going to support the hon. member for Croydon, not only as a personal friend, but as one who believed every word the hon. member said in that Committee to be true. Why were they present to discuss one of the most important questions that could be put before any Parliament in Australasia?

The CHAIRMAN: If the hon. member will allow me, I will tell him. The question before the Committee is to add the proposed words to the proposed amendment.

The SECRETARY FOR MINES had as great a desire as the hon. member for Croydon to make this a good Mining Bill, and to surround the fifty-acre provision with all possible safeguards. Had the hon. member allowed the amendment he proposed the previous evening to