"The Advertiser"
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to gaol for two months. He would support any proposal to abolish imprisonment where a debtor had nothing to pay with. Of course it was a different matter if a man had money and would not pay.

The ATTORNEY-GENERAL said Mr. Batchelor was under a misconception as to the case he had referred to. The man set in motion against his employer law of a quasi-criminal nature, and if he had succeeded and the employer could not pay he could have had him sent to gaol. There should be the same remedy against the employe if he lost the case and failed to pay the costs. It was not for the non-payment of a debt that a man was sent to gaol, but for misconduct such as not answering to the summons, obtaining credit under false pretences, contracting a debt without means of paying it, failing to pay when able, and defying the court. It was not on account of poverty that a man was sent to gaol.

Mr. ROBERTS said the argument of the Attorney-General would be very good if what he said were carried out in practice. It was not so under the Masters and Servants Act. Some orders were made under unsatisfied judgment summonses, when it was known that the defendants could not comply with them, and when they did not they were sent to gaol. The clause would be better for Mr. Glynn's amendment, and with that he would support it.

Mr. O'MALLEY said the practice of placing a man in gaol for the purpose of squeezing something out of him that he did not possess belonged to the dark ages.

The clause passed, as did clauses 48 and 49.

Clause 50. Statements for decision of Supreme or Local Courts.

Mr. WOOD moved to insert after "matter" in the first line "involving an amount of ten pounds or upwards, or any question of trespass or title to land or goods of ten pounds value."

The amendment was negatived and the clause passed, as did clauses 51 to 61, with schedules A, B, and C.

New clause. Preference creditors.

Mr. WOOD proposed to insert the following new clause:—"Notwithstanding any Royal prerogative to the contrary, in the distribution of the estate of an insolvent the Crown shall not as such be entitled to preference over other creditors." There was no reason why the Crown should have preference.

The ATTORNEY-GENERAL asked Mr. Wood not to press the motion.

Mr. GLYNN asked the committee to agree to the motion. It was the survival of a monstrous practice of ancient times that the State should have a preference.

Mr. POYNTON said there was a good deal in the clause, but it was burying it to put it into this Bill, for nothing more would be heard of the measure after they had done with it and sent it to the Council. Carrying the clause would neither do any good nor any harm. He would support it.

The clause was declared negatived, and Mr. WOOD called for a division, which resulted as follows:—

AYES, 13—Messrs. Batchelor, Carpenter, Coneybeer, Copley, Glynn, Handyside, Hourigan, Hutchison, O'Malley, Poynton, Price, Solomon, and Wood (teller).

NOES, 16—Messrs. Archibald, Blacker, Brooker, Butler, Cummins, Dumas, Foster, Holder, Jenkins, Miller, Moody, O'Loughlin, Peake, Randell, Roberts, and Kingston (teller).

Majority of 3 for the Noes.

New clause. Juries to fix punishments.

Mr. O'MALLEY moved to insert the following new clause:—"Upon the charge of any person charged with any felony or misdemeanor the jury may in their verdict declare that such person is guilty in the first, second, or third degree, and the court shall, within the limits prescribed for the offence, award punishment according to the degree of guilt thus indicated." He said this was one of the most important proposals brought before this or any other Parliament. The jury, which sifted the evidence, should be competent to say not only whether the prisoner was guilty or not, but the punishment which should be awarded. It was not fair to leave it to the judge, who might be suffering from a severe attack of gout. The Suffield case in Sydney and many other cases could be quoted in support of that contention. In many of the American states this power was possessed, and as trial by jury had been such a splendid institution he hoped the committee would adopt the clause.

Mr. BATCHELOR moved to insert "capital offence" before "felony." That was the most important class of case in this connection. Juries had often let a man off rather than hang him, although they might think he deserved some punishment.

Mr. PRICE supported the clause. He was on a jury which considered a murder case and let the prisoner off. That action had been on his conscience ever since. He did not think that hanging should be the punishment, and they had no power to impose another sentence.

Mr. WOOD would also support the clause, and was glad Mr. O'Malley had proposed it.

Mr. ARCHIBALD said the present practice in South Australia was not desirable. There had been a man walking about in the colony for 15 years who many thought ought to have been hanged.

The ATTORNEY-GENERAL said this matter should be considered in a separate Bill owing to its importance. The first, second, and third degree of punishment for murder was hanging. If Mr. O'Malley would not press the clause he would promise to assist him in preparing a Bill on the subject.

Mr. HANDYSIDE did not think the clause would work. He would prefer to see the jury empowered to give a majority verdict, as in the Scotch law. He moved to insert after "jury may", the words "by a majority."

The CHAIRMAN doubted whether he could allow the clause to be put, as he questioned whether the Bill dealt with criminal trials.

The ATTORNEY-GENERAL said the Bill dealt only with the preliminary hearing in criminal cases, and not with the question of juries. He asked that these important matters should be left for a separate Bill. At present the jury were kept in ignorance of the prisoner's record, and if they found an innocent-looking man guilty in the third degree, it would tie the hands of the judge, who under present arrangements could apportion the sentence with a knowledge of the prisoner's record.

Mr. O'MALLEY said in the state of Kansas the punishment for murder in the first degree was hanging; in the second degree, life; and in the third degree, not more than five years. The Governor had refused for the past 22 years to sign any warrant for hanging. A judge should not punish a man more because he has already been punished for an offence. He would withdraw the clause on the promise given by the Attorney-General.

Mr. ROBERTS asked the Attorney-General to report progress, as legislation under such conditions as then prevailed was a farce. What was the good of discussing clauses if they were to be withdrawn?

Mr. BATCHELOR said Mr. O'Malley was wise in withdrawing his clause.

Mr. HANDYSIDE hoped the Attorney-General would consent to report progress, as members had worked quite long enough for one day.

Mr. ARCHIBALD hoped the Attorney-General would not resume. He was prepared to sit for another five hours to get through the Bill.

The ATTORNEY-GENERAL said having got the measure so far in committee it would be a pity now to resume.

New clause—Women on juries.

Mr. O'MALLEY moved to insert the following new clause:—"Every woman not more than 60 years of age, and registered on any roll of electors for either House of Parliament, shall be qualified as a juror, and liable, *mutatis mutandis*, to the provisions of the Jury Act of 1862, to serve on the trial of women at any criminal sitting of the Supreme Court." He said it was only fair that when women were charged with offences members of their own sex should sit on the jury to try them. Women exercised the vote intelligently, and they were competent to try the issues of a criminal case in which other women were concerned. The system of women juries had acted very well in Wyoming, where it was highly valued. He hoped his clause would be accepted, as it covered a great and important reform.

Mr. HANDYSIDE said this was a sensible democratic clause. Why should not women be capable of sitting on a jury as well as men? Now that the women had got the suffrage they should not be denied the privilege which Mr. O'Malley sought to confer upon them. He supported the clause.

The ATTORNEY-GENERAL said more consideration would be shown by men to women charged with offences than by their own sex. If Mr. O'Malley wished he would assist him to draft a Bill covering this and the other clauses of which he had given notice. He asked Mr. O'Malley, seeing where his support was coming from, to withdraw the clause and incorporate it in a separate Bill.

Mr. O'MALLEY said although he was very anxious to pass the clause he would ask leave to withdraw it on the understanding that the Government would help him to frame a Bill on the subject.

Mr. WOOD objected to the withdrawal. Sooner than miss the opportunity of discussion he would move the clause, as it was of great importance to women, and should be inserted in the Bill.

Mr. ROBERTS said Mr. O'Malley in thus moving and withdrawing clauses appeared to be going in for a little advertising. In moving this clause, the last 30 minutes had been wasted and a miserable farce was being enacted. He again asked the Attorney-General to resume, and allow members to go home and get sufficient sleep to enable them to do their work intelligently at the next sitting. Several clauses had already been proposed and withdrawn, and it would probably be the same with the others that were to come on. The Attorney-General having got his own Bill through did not want to take what other members suggested. It would be much better to report progress. If the members of the Government would continue when they knew that many who were present were not in a fit condition to carry on the legislation then they must put up with the consequences. It would be much better if all honorable members could go home and sleep rather than that the business of the House should be carried on in such a farcical style.

Mr. ARCHIBALD said Mr. Roberts in his wisdom had undertaken to lecture honorable members, and had twitted Mr. O'Malley with advertising himself. He was surprised at Mr. Roberts saying that members were not in a fit condition to do their work. He was 20 years older than Mr. Roberts, and was prepared to go on for three or four hours more.

The CHAIRMAN—This discussion is out of order. The question is the clause moved by Mr. O'Malley, who has asked for leave to withdraw it.

Mr. ARCHIBALD said it would be much better to finish the Bill and get a reprint.

The ATTORNEY-GENERAL asked hon. members to get on with the Bill, as they would complete it in a very short time.

Mr. CONEYBEER hoped Mr. O'Malley would not withdraw the remaining clauses he had given notice of. He would like to see them all embodied in the Bill.

Mr. O'MALLEY said that if he wanted to advertise himself he would keep them going all night. After what some members had said he did not think he would withdraw. He only agreed to do so because the Attorney-General said he would assist him in bringing the clauses in as a separate Bill next session.

Mr. WOOD said that if Mr. O'Malley withdrew this clause he would never get an opportunity of moving it again. The Government got members to withdraw certain things on promises which were never carried out. Major Castine had withdrawn something on a promise that a Bill would be brought it, and the Attorney-General drafted it so that the effect was just the opposite to what was expected. (The Attorney-General—"That's an absolute fabrication.") Well, the Attorney-General fabricated it.

The ATTORNEY-GENERAL said Mr. Wood had made the atrocious suggestion that he drafted a Bill in the opposite direction to which an honorable member desired. No one else would have had the audacity to suggest that. Did anyone else believe it? No. The honorable member stood conspicuous in his iniquity in making such an ignominious and contemptible suggestion. He was surprised to see Mr. Glynn sitting cheek by jowl with the honorable member. (Mr. Glynn—"You had better keep your temper.") He was not losing his temper. (Mr. Glynn—"You have lost your veracity, though." Mr. Poynton—"Would it not be better to report progress?") No. They had very little left to do.

Mr. PRICE moved that the committee divide. Carried.

The clause was declared negatived, and Mr. WOOD called for a division, which resulted as follows:—

Ayes, 8—Messrs. Batchelor, Carpenter, Coneybeer, Handyside, Hourigan, O'Malley, Price, and Wood (teller).

Noes, 21—Messrs. Archibald, Blacker, Brooker, Butler, Copley, Cummins, Dumas, Foster, Glynn, Holder, Hutchison, Jenkins, Miller, Moody, O'Loughlin, Peake, Poynton, Randell, Roberts, Solomon, and Kingston (teller).

Majority of 13 for the Noes.

New clause. Free-trade in law.

Mr. PEAKE moved the insertion of the following new clause:—"16b. Parties to actions in Local Courts and to proceedings before Courts of Summary Jurisdiction shall be entitled to have their cases conducted by agents, or other persons acting on their behalf, and such agents shall be entitled to recover agreed remuneration, subject to taxation and scales of costs applicable to solicitors' costs in like cases." He said the clause involved what might be called free-trade in law. At present the doors of many of our courts were barred to suitors because in some places there were no lawyers, and it cost too much to get them to go there. Under the summary procedure part of the Bill too cases might be heard at a Local Court at any time, so that it was more important than ever that such a provision should be adopted. Hitherto the sittings were usually arranged so that the lawyers in a district could get round to them.

The ATTORNEY-GENERAL could not see his way clear to support the clause. Much might be said in favor of free-trade in law, but it was not advisable that the profession should be interfered with in this way. If they could not, however, reasonably open the door of the profession to the public in the way proposed in the Bill he should possibly be prepared to give this clause more favorable consideration than at present.

Mr. BATCHELOR supported the clause. Having gone as far as the Government proposed why not go the whole hog and adopt free-trade in law.

Mr. WOOD was surprised at the Premier not supporting the clause, although in his opinion it should not be adopted. As a unionist he deprecated the action of the Government in trying to interfere with the profession to which the Premier belonged.

Mr. ROBERTS hoped the clause would be withdrawn. It would lower the profession in a way the colony would not be prepared to accept. His experience would lead him to go to a lawyer instead of an ordinary agent. The clause would be a serious infringement of the present system of bringing cases before the court, and it would be both dangerous and expensive to litigants.

Mr. PRICE said Mr. Roberts's speech bore out his contention that it was time they adjourned. The clause would not lower the standard of the profession. It was an inquitous tyranny that a man should not be allowed to be represented by other than a lawyer in court.

Mr. ARCHIBALD approved of the clause. Where legal knowledge was wanted a man would find it better to have a lawyer, but in many cases he could be well represented by a layman.

Mr. MILLER moved "That the committee divide." Negatived.

Mr. BATCHELOR said a high qualification was only required if there was a ring fence round the profession. He preferred free-trade in law. At coroners' inquests the Railway Department could be represented by agents, but other people had to have lawyers.

Mr. ARCHIBALD said a layman could only appear before the court through the courtesy of the coroner.

The ATTORNEY-GENERAL said no one had formerly a right to appear at the Coroner's Court except by the permission of the coroner, but now all persons could have representatives, lay or professional. It was not proposed by the Bill to lower the standard but to establish a more useful standard more easily attained.

Mr. PEAKE did not wish to lower the status of the profession, but the matter had been brought before him at several places. The clause would not allow any but practitioners to appear before the Supreme Court. He would have liked to have seen it made possible for licentiates of the Local Court to appear in such courts. He would bring the matter forward again.

The clause was declared negatived, and Mr. PEAKE called for a division which resulted as follows:—

AYES, 9—Messrs. Archibald, Batchelor, Carpenter, Coneybeer, Hourigan, O'Malley, Poynton, Price, and Peake (teller).

NOES, 18—Messrs. Blacker, Brooker, Butler, Copley, Cummins, Dumas, Glynn, Holder, Hutchison, Jenkins, Miller, Moody, O'Loughlin, Randell, Roberts, Solomon, Wood, and Kingston (teller).

Majority of 9 for the Noes.

PAIR—Aye, Mr. McGillivray; No, Mr. Cook.

New clause. Judgment summonses.

Mr. PEAKE moved the following new clause:—"16a. Any person who shall obtain a judgment which has not been wholly satisfied may, by application in writing, apply to the clerk of the Local Court in which the judgment was obtained, to transmit the proceedings of the action relating thereto, together with a record of such judgment, to the Local Court nearest to where the judgment debtor may reside, and the clerk of the court to which such proceedings and record shall be transmitted shall, upon the application of the judgment creditor, issue such proceedings against the debtor out of the last-mentioned court as he would have been entitled to issue out of the court in which such judgment was obtained."

The ATTORNEY-GENERAL said he could not gather what Mr. Peake was driving at.

Mr. PEAKE said he wished to put upon the statute-book a provision which would cause a process to be sent to the court nearest to the place where a debtor against whom judgment was obtained resided.

The ATTORNEY-GENERAL said that was already provided for in existing legislation.

Mr. PEAKE said he did not wish to duplicate the law, and on the assurance of the Attorney-General he would withdraw his clause.

Leave was granted, and the clause withdrawn.

Mr. ROBERTS—There goes another one. It was a strange thing that a member who recently twitted him with being unable to keep awake had gone off for a sleep, and so had missed the last division.

New clause. Conference of practitioners.

Mr. WOOD moved—"The Governor may appoint practitioners of the Supreme Court to join in conference with the judges or members of any court of superior or inferior jurisdiction, and thereupon to consider and by a majority of such court and practitioners to finally determine all matters in dispute between litigants." He said those members who believed there was a monopoly in the law should support the clause. The monopoly would die away if his provision were accepted.