

**Record of the
Proceedings of the Queensland Parliament**

...
**Legislative Assembly
8th September 1863**

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Extracted from the third party account as published in the
Courier 9th September 1863

The SPEAKER took the chair at twenty minutes past three, and read the usual form of prayer.

MAIN ROADS COMMITTEE.

The SECRETARY for LANDS brought up the report of the above committee, and moved that it be printed.

The ATTORNEY-GENERAL seconded the motion, which was put and passed.

DREDGE COMMITTEE.

Mr. COXEN brought up the report of the above committee, and moved that it be printed.

Mr. WIENHOLT seconded the motion, which was put and passed.

MESSAGE.

A message was received from the Legislative Council, reporting that the amendments of the Legislative Assembly in the Quarantine Bill had been agreed to.

BREMER RIVER.

Mr. BELL asked the Secretary for Lands—Whether it was the intention of the government to proceed with the removal of trees of a large growth from the banks of the Bremer River without delay, in order to prevent the increase of obstructions to the navigation, which the constantly falling timber into the river creates.

The SECRETARY for LANDS, in reply, stated that the government hoped at an early date to be able to take action in the matter referred to in the hon. member's question.

EDUCATION.

Mr. LILLEY postponed the resolutions standing in his name, relative to education, until the next day.

PRINCESS' CUP.

Mr. BLAKENEY withdrew the following motion standing in his name, substituting a new notice of a somewhat similar character:—"That this house will, on Tuesday, the 1st day of September next, resolve itself into a committee of the whole, to consider of an address to the Governor, praying that his Excellency will be pleased to cause to be placed on the Supplementary Estimates for the year 1863, a sum not exceeding fifty pounds for the purpose of providing a prize for first-class four-oared gigs, to be called the "Princess's Cup," to be competed for on the day of the regatta, to be held at Brisbane, in commemoration of the foundation of the colony of Queensland."

MR. ABRAHAM HARTLEY.

Mr. GROOM moved—“(1.) That a select committee be appointed, with power to send for persons and papers, and leave to sit during any adjournment, to enquire into and report upon the allegations contained in the petition of Mr. Abraham Hartley. (2.) That such committee consist of five members, to be chosen by ballot.” He said he felt that he was, in introducing the above motion, laboring under a great disadvantage, inasmuch as he was touching upon dangerous ground. He was quite willing to admit that the argument of the hon. and learned Attorney-General to the effect that it was desirable that that House should interfere as little as possible with the judicial proceedings of the various benches of magistrates throughout the colony was a sound one. He must, however, submit that in the present instance the petitioner had no other appeal from what was conceived by him to be a case of very great hardship. He (Mr. Groom) intended to be careful that not even unguardedly should any reflections be cast by him upon the conduct of the particular magistrate named in the petition. That gentleman had been spoken of in very high terms by many persons qualified to judge, although it was asserted by many other persons residents of the towns of Toowoomba, Ipswich, and Brisbane, that in the matter then before the house he had not been actuated by proper motives. He (Mr. Groom) was quite aware that he should pause before he endeavored to induce that house to interfere with the ordinary course of justice unless some good cause could be shown therefor, and in his opinion that cause was shown by the petitioner. It appeared that for the past six years the petitioner had held a publican's license—three years in Ipswich and three years at Jondaryan. During that time no charge had been brought against him whatever, and all his applications for a license were acceded to without demur, with the exception of the occasion referred to in the petition. That the house for which he had last held a license was conducted in a proper manner the petitioner had many certificates to prove, which certificates had been produced. It appeared that Mr. Sinclair had visited the house three times for the purpose of obtaining accommodation, and had during his sojourn there, made objections of a very frivolous nature to the style of entertainment afforded him. Such conduct had naturally irritated the petitioner, and he had told Mr. Sinclair that if he were not satisfied he had better go away altogether. Mr. Sinclair, according to the petitioner, had expressed his intention of some day or other having his revenge. When he was appointed police magistrate of Dalby, a letter had appeared in one of the public journals from the petitioner, complaining of his appointment. Subsequently, when the petitioner applied for his license, it was refused; and the reason for such refusal would not be given by Mr. Sinclair, that gentleman alleging that as the applicant was not present, he could not give the reason for the refusal of the license to any other person. He (Mr. Groom) thought that, at the time of the appointment of Mr. Sinclair some objection was made on account of his being a clergyman, it would only be doing an act of justice to himself and the public that full enquiry should be made into the first case that had been brought against him.

Mr. LILLEY seconded the motion, which was put and passed, and the house proceeded to the election of the committee, as follows:—Messrs. Groom, Bell, Taylor, Kennedy, and Cribb.

NEW MEMBERS.

Messrs. Edmondstone and Brookes took the oaths and their seats as members for the electoral district of West Moreton. The former gentleman was introduced by Messrs. Stephens and Blakeney the latter by Messrs. Lilley and Pugh.

LAND RECEIPT BILL.

Mr. DOUGLAS rose to move the second reading of the above bill, and in doing so spoke at great length. In the course of his speech he referred to the fact that it had been thought desirable, when the matter was mooted some time ago, that the grants of land for the cultivation should cease altogether; and at that time it had occurred to him and other hon. members that it would be desirable to encourage as much as possible the cultivation of other tropical productions. He had, in order to do so effectually, turned his attention to the laws at present in existence regulating the alienation of Crown lands. He had accordingly done so, and had failed to discover anything therein contained which could possibly affect the further extension of its provisions in the manner

required. He had noticed that clause 17 of the Act referred to conferred power upon the government to resume any land in the occupation of the squatters after twelve months' notice had been given; and he had observed that the government had taken advantage of the power given by the clause, and selections had been made for the purpose of cotton-growing. Now, he believed that the circumstances of the colony imperatively required that the principle of the bill should be much further extended, and he had accordingly brought in a bill to provide for giving additional facility to the prosecution of agricultural pursuits, his principal object being to obtain land for the purpose of tropical agriculture under more advantageous circumstances than at present existed. The bill provided that unrestricted selection of a quantity of land not less than 160 acres nor more than 640, and for which a not less sum than twenty shillings per acre be paid, should be allowed within a defined area, and he had considered that the most desirable area was the county of Stanley. The hon. gentleman proceeded to review the various clauses of the bill, and concluded by expressing his desire that the second reading would be passed.

Dr. CHALLINOR considered that the sole effect, the sole object of the measure before the house was—to give capitalists the privilege of picking the eyes out of the country; and that, too, where the land would be of most value—on the seaboard. (Hear, hear.) There was nothing in the bill to prevent what had already taken place on the Darling Downs—the purchase by squatting capitalists, under their pre-emptive right, of land worth £10 an acre, the price of £1 an acre. Therefore he hoped the house would never sanction such a measure.

The SECRETARY for LANDS and WORKS doubted very much whether he would have risen at this early stage of the debate had the hon. member for Port Curtis (Mr. Douglas) not made an almost direct appeal to him. He could assure that hon. member that he was extremely delighted to find that he had endeavored to bring before the house a bill which, if not calculated in itself to effect any good, was, at any rate, intended to effect some good. (Hear, hear.) And, although the hon. member had chosen to find fault with the course of action which he (Mr. Macalister) had taken (“Oh, no!”) in the introduction of a bill regarding agricultural reserves (“No, no,”) perhaps the hon. member himself might be as much liable to blame as the introducer of it, for that measure having been delayed for such a very late period of the session. He had been hoping that the hon. member's measure which was now before the house would have saved him the necessity of introducing any bill at all; because it was not to be denied that there were difficulties with regard to the agricultural reserves which could only be removed by legislative authority. But he found that the hon. member, instead of going into the question of agricultural reserves—instead of adhering to the title of his bill, which was “a bill to facilitate the acquisition of land for agricultural purposes”—he found that it was intended, in point of fact, for what he (Mr. Douglas) termed “parties who are now about to proceed in cotton growing.” Now, there were no regulations of the government in force in this colony that had answered so well, or that required so little interference by the house, as the regulations with respect to cotton growing. And he (Mr. Macalister) believed that the hon. member was unable to point to a single case under those regulations in which a party had the slightest difficulty in carrying out the object he had in view. He quite admitted, as the hon. member had just said, that they had ceased. If the hon. member had confined his bill to some process by which the government could have been enabled by the house to assist parties in cotton growing, he (Mr. Macalister) would have been very happy to have supported it. Whatever the honorable member may have intended it for, the bill was not calculated to carry out such a process as that. If he were to designate the bill by its true name—and he would not do so only that the measure itself deserved it, and because the hon. member did not, or could not, observe what its effect would be on the colony—if he were to designate it as a bill to facilitate land jobbing (hear, hear), a bill to introduce all kinds of corruption in dealing with the lands of this colony, then he would call the bill exactly what it was, and describe exactly what it was calculated to carry out. (Hear, hear.) After that it was almost unnecessary to go into details—which the hon. member (Mr. Douglas) called the principles of the bill. The first clause proposed that any man should have it in his power by a written application, “accompanied by a certificate of survey,” to obtain from the Colonial Treasurer “a land purchase receipt.” It would appear from that that any kind of survey would be sufficient to enable a party to call upon the Treasurer to issue a receipt—no matter whether the party surveying was competent to discharge his duties, no matter what his character, upon producing something—that might be drawn up by

the applicant himself—the Treasurer was to be called upon to issue a receipt. He stated this to show what the consequences were. The second clause said—“Upon the issue of any such receipt it shall be lawful for the applicant to occupy and cultivate, or otherwise make use of the land therein referred to, and every such receipt shall be received in every court of law and equity as sufficient evidence of the title of such applicant and his heirs to occupy and use the land therein referred to.” The hon. member said that the receipt would serve the party as a title until he got his deed of grant; that, in point of fact, it would stand in the same position as a receipt given by a land agent at a land sale by auction. He could assure the hon. member for Port Curtis that it would be nothing of the sort. If the clause passed the parliament, the receipt would be a sufficient title against the world, if the man never got the grant at all. (“Hear, hear,” from Mr. Lilley.) But that was not the object of the hon. member, or he would not have introduced a clause referring to a deed of grant. The applicant was not only to deposit a certificate of survey at the Treasury, but the Treasurer was forthwith to transmit the same to the Surveyor-General, by whom it was to be verified. (Mr. Douglas: “The survey.”) But what was to be done if the survey was worthless and that the party who held the land purchase receipt ought not to have the land at all? In what position would the government stand with regard to the purchases? They could not interfere; they would be perfectly powerless against the applicant and the holder of the receipt. The fourth clause appeared to him to be the most damaging clause in the bill:—“No application shall be received for less than one hundred and sixty acres or more than six hundred and forty acres, nor shall the price of land to be sold under this act be in any case less than at the rate of one pound per acre.” If he were to say, from reading the bill, for whom the hon. member intended to legislate, that clause would lead him to it at once. They were sometimes in the habit of hearing that the government were not the government of the poor man—that parliament had disregarded the interests of those who came out here with £18 land orders, and who were unable to buy small quantities of land—that parliament was simply legislating for the capitalists of the country; but he would ask hon. members to look at that clause, and answer the question themselves, whether the hon. member was not legislating for the capitalists of the country—if his bill was not an attempt to prevent the poor man from getting the slightest footing in the country, from getting any land in the county of Stanley, and a bill to hand it all over to the capitalists and parties who jobbed in land? Then the hon. member made no restriction as to the quantity of land which a selector was entitled to take. (Hear, hear, from Mr. Douglas.) If he (Mr. Macalister) understood the bill, any capitalist, with a surveyor at his side, could go and pick out the eyes of the county of Stanley for £1 an acre. If that was the principle of the bill, and the house was satisfied with such a course of procedure, while personally he had no interest in the matter, he should be bound to protest against it; for he conceived that, to adopt such a principle as that would be to disregard the interests of those who came here, and to disregard the best interests of the colony. He should be obliged to vote against the bill.

Mr. MACKENZIE (who was almost inaudible in the gallery) was understood to say that it was not so much with the present law for settlement on the agricultural lands that he disagreed as with its administration. The law was not carried out according to the original intention of the framers of the act. There were two measures before the house, but of the two he preferred to support the one under consideration. The house was aware that persons coming to the colony were not treated in accordance with the promises of the government—they could not lay their hands on any land fit for agriculture. Whatever his views on agriculture might be, it was not for him to say now. The bill was in the first place confined to the county of Stanley; secondly, the government had large powers to guard against its abuse. He did not understand his hon. friend to say that it was for cotton-growing at all. (Mr. Moffatt: “For everything.”) He certainly agreed with the hon. Minister for Land and Works so far, and disagreed with the hon. member for Port Curtis, as to think that unless there were conditions of occupation under the bill, there would, as a matter of course, be land-jobbing. The hon. member spoke at some length on the general question, and compared the bill of the Minister for Lands and Works with the present bill, saying that the hon. Minister for Lands and Works had borrowed from the hon. member for Port Curtis. He would support the bill before the house, believing that the alterations and amendments that could be made in committee would make it a good measure.

The question was then put, and the house divided:—

Ayes, 10.

Mr. Douglas
Pugh
Lilley
Mackenzie
Blakeney
Kennedy
Brookes
Edmondstone
Stephens
Groom

Noes, 14.

Mr. Moffatt
Macalister
Wienholt
Pring
Bell
Herbert
M'Lean
Royds
Taylor
Cribb
Sandeman
Edwards
Coxen
Challinor

The question was therefore resolved in the negative.

THE RAILWAY GAUGE.

On the motion of Mr. MACKENZIE, the house resolved into a committee of the whole to consider the "Legislative Council's resolution relative to the railway gauge."

Mr. MACKENZIE said he thought it was unnecessary for him to take up the time of the house by speaking at length on a question which had been so freely and fully discussed in both houses. There was nothing new to be said. The Legislative Council had come forward to rescue the government from a dilemma, with a very moderate resolution to this effect:—“(1.) That this house, while cordially approving of the spirit of economy exemplified by his Excellency's advisers in the proposed construction of the railway, would, at the same time, earnestly urge upon them not to adopt the 3 feet 6 inches gauge without having further evidence of its safety and fitness, not only for the present, but future wants of the colony. (2.) That this resolution be forwarded to the Legislative Assembly for its concurrence.” He could hardly see how the government could object at all to them; but he thought that they should unanimously concur in them. The hon. member condemned the 3 feet 6 inches gauge for railways as one that was not used in any country in the world for passenger traffic, and contended that the government should adopt the English narrow gauge of 4 feet 8½ inches. The difference of cost between the two was variously stated at from £200 to £500 a mile, and he thought that the government were bound to give full consideration of the subject when the difference of cost was so small between a properly made railway and an untried railway. He moved that the committee concur in the resolutions of the council.

Mr. BLAKENEY seconded the motion.

After a pause,

Mr. DOUGLAS complained that the government had made no sign, and that they treated the Upper House, which was under their especial protection, with discourtesy. He thought that the resolutions demanded the serious attention of the government and the house. Referring to the report of Mr. Fitzgibbon, he urged that it required the most powerful engines to ascend, a gradient of 1 in 50, and that such engines could not be worked in a railway of 3 feet 6 inch gauge. He contended that the government had not sufficient data for fixing, on any gauge, and that until they decided that point they ought not to proceed with the line.

The SECRETARY for LANDS and WORKS said the hon. member who had last addressed the committee had charge the government with a want of courtesy in not dealing with this question. The fact of the matter was, they had nothing to deal with. They were perfectly prepared to take the resolutions of the Council, and to act upon them; but they thought it was too bad to

deprive the hon. member of the opportunity of making a little political capital out of it. (Hear, hear, and laughter.) The hon. member for the Burnett had said that the house had agreed on the second reading of the Railway Bill to adopt the 4 feet 8½ inches gauge—"No, no," from Mr. Mackenzie)—then, he miss-apprehended the hon. member. There certainly was no understanding in the house that the 4 feet 8½ inches gauge was to be adopted, nor was he prepared to say that there was any distinct agreement that any gauge should be adopted; but, if there was any understanding, it was in favor of the 3 feet 6 inches gauge. (Hear, hear.) When he moved the second reading of the bill, he distinctly stated that unless the government could construct a line of a very economical character, they would not have introduced railways at all at this period of the colony's growth. The hon. member for Port Curtis was wrong in saying that the difference in the cost between the 4 feet 8½ inches gauge and the 3 feet 6 inches gauge, was, at most, £500 a mile. The hon. member must know, that according to the evidence taken before the Legislative Council, the difference was £3000. Both Mr. Plews and Mr. Fitzgibbon concurred in that respect; and he thought hon. members would agree with him, from what they knew of those two gentlemen, that they could not have better evidence. With regard to the hon. member's statement about the gradients, he said that if a gradient of 1 in 50 required an engine of 40-horse-power, the evidence showed that two engines of 20-horse-power each would do more work. ("No, no," and "Hear, hear.") The hon. member admitted that safety was a question of speed; therefore he (Mr. Macalister) could not discover the meaning of all the dispute about gauge. Hon. members had not been attending to the evidence. (Hon. members of the Opposition: "We have not seen it.")—Well, if hon. members wished for a copy they could have it. ("Where, where")—it was about the house. ("On that side of the house; none on this.") The hon. member then proceeded to read at considerable length extracts from a "memorandum respecting 3 feet 6 inches gauge," which was given as evidence by Mr. Fitzgibbon before the Legislative Council. [Want of space compels us to omit the extracts; but we shall publish the document 'in extenso' in our next issue.] Both Mr. Fitzgibbon and Mr. Plews agreed that a 3 feet 6 inch gauge was perfectly safe up to a speed of 20 or 25 miles an hour. Some parties insisted that the traffic of the colony would demand heavier engines and heavier rails than those proposed; but it seemed to him that if the traffic increased to ten times as much as it was now the only increase necessitated would be the increase of the number of lines. Such a circumstance would only have the effect of driving the first line further into the interior of the country, and that instead of there being only one line there would soon be two or three lines. He might mention, on the part of the government, that not only would every precaution be taken to obtain the opinions of the most eminent engineers in England on the subject of the gauge, and he might state that Mr. Fitzgibbon's report and an application for such opinions went to England by the last mail (hear, hear); so that before it was possible for the government to adopt any action respecting the width of the gauge an answer would be back; and whatever action was taken after this would be dependant on those opinions obtained in England. (Hear, hear.) He assured the house that the government had no idea of rushing into the matter except on undoubted authority. (Hear, hear.)

Mr. BROOKES said it was with some hesitation that he presumed to address the house; but as the latest importation, he might perhaps be the means of giving the public and the house information on this subject, to which they had not been accustomed. He could assure the house that in his late canvass he had found that the public looked with the greatest suspicion on the movement the ministry were initiating. (Hear, hear.) Notwithstanding all that the Minister for Lands and Works had said on a subject which he did not understand, and on which he had been coached up with imminent peril to his physical organisation, he assured him that the feeling outside was that, on the part of the ministry, there was an attempt to rush the 3 feet 6 inches gauge on the public. (Hear, hear.) After hearing the protest against that gauge by the Surveyor-General of the colony, he could not believe in the course of conduct pursued by the government. But the house were labouring under a difficulty which hon. members had no right to be placed in, by not having the evidence taken at the bar of the Council placed before them. The light shone brightly on the other side of the house, where hon. members had the printed documents; but he saw none on the opposition side. The authority of Mr. Adams had been quoted in railway matters; but he (Mr. Brookes) had been told that Mr. Adams was merely a coach-builder. He contended that the house would run a great risk by adopting the three feet six inches gauge; and that the colony would be open to the derision of the world if it were adopted. Amongst other matters he

urged that the preliminary difficulty had not been got over; he wanted to know where the railway was to start from and where it was to be taken to. (Mr. Macalister: "Do you know what your talking about?" "Question," and "Hear, hear.") He wanted to know whether the line was to be taken to Toowoomba or to any other place by a better route? He looked upon the three feet six inches gauge as a complete toy in the matter of railways.

Amid cries of "Question" and "Adjourn," the Chairman hesitated whether to leave the chair or not.

Mr. BLAKENEY said he wanted to speak on the question.

The Chairman then left the chair, and the house adjourned for refreshment.

On the house re-assembling at seven o'clock,

Mr. BLAKENEY called the attention of the Chairman to the state of the house, when it being found that there were only twelve members present, the house was adjourned until three o'clock the next day. The following members were present:—Messrs. Pring, Moffatt, Macalister, Bell, Challinor, Taylor, Blakeney, Mackenzie, Coxen, Groom, Brookes, and Kennedy.