Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 2 JUNE 1875

LEGISLATIVE COUNCIL.

Wednesday, 2 June, 1875.

Member Sworn. — Resumption of Land. — Matrimonial Causes Bill.—Oaths Act Amendment Bill.—Appeals from Justices Bill.—Parliamentary Buildings Bill.

MEMBER SWORN.

The Honorable John Christian Heussler, Esquire, having returned from Europe, whither he had gone on leave of absence, presented himself, and being sworn, took his seat.

RESUMPTION OF LAND.

A message was received from the Legislative Assembly intimating that that House had agreed to the amendment made in the resolution respecting the proposed resumption of land from runs in the settled districts.

MATRIMONIAL CAUSES BILL.

The POSTMASTER-GENERAL, in moving the second reading of the Matrimonial Causes Bill, said that it was to amend the Act passed in this colony ten years ago.

The Hon. G. HARRIS rose to a point of order. There were no Bills distributed to honorable members, who were therefore unable to follow the honorable gentleman representing the Government.

The PRESIDENT: How is that, Mr. Clerk?

Bills were forthwith distributed in the customary manner.

The POSTMASTER-GENERAL: The present Act had been in duration almost ten years, and until recently, it was a dead letter. A great many divorce cases had cropped up in the court; so much so, that now it was found necessary to amend the Act, which provided that only the full court could adjudicate in such cases. The Bill proposed, as honorable members would perceive, that a single judge sitting alone, or with other judges, might adjudicate upon any business in the Matrimonial Causes Jurisdiction. Of course, it would be competent for the parties, on either side, to appeal from that judge to the full court, if necessary. The Bill provided also, that when decrees were made by the court, they should only be decrees *nisi*, they could not be made absolute for three months afterwards. In the meantime, parties who felt aggrieved, could come into court and show cause that the rule should not be made absolute. That was to prevent collusion on the part of those who sought relief from the court. The Bill provided further for the

revision of post-nuptial and marriage settlements. That was borrowed from the English enactment. And another provision was for the custody of children after the court had finally decreed. The Bill was not a very long one, consisting of eleven clauses. The first section enacted the repeal of sections 4, 5, and 50, and part of section 3 of 28 Victoria, No. 29, that was the Matrimonial Causes Jurisdiction Act of 1864. The second clause provided that the judge-ordinary should have power to determine all matters, sitting alone, instead of, as at present, the three judges acting as the full court. The sixth clause allowed the right of appeal from a single judge to the full court, the same as at common law, should either party feel aggrieved by the decision of the judge. The seventh clause set out that, as he said before, a decree for divorce or nullity of marriage should be a decree *nisi*, and that a decree should not be made absolute for at least three months after it was issued. He could not see any objection to the Bill. This much he might say, that it would prevent the very unnecessary delays which had recently taken place in the colonial divorce court. The judges could not always make it convenient to sit as the full court. They might be sitting in *nisi prius*, or on circuit, in different parts of the colony; and the three might not be able to get together for some time; though suitors were delayed until the full court could sit. The Bill would, if passed, remedy all that. He moved formally—

That this Bill be now read a second time.

The Hon. A. H. BROWN said he listened with great attention to what the Postmaster-General said with regard to the Bill; and, so far as the honorable gentleman explained it, there might, perhaps, be an advantage in one judge sitting to adjudicate in matters which now required three judges, and in the correction of delays which had occurred hitherto. As to the 6th clause, which provided that a decree of the court should not be made absolute for three months, which was a virtual postponement of the decision of the court for that period, it would, as the Postmaster-General said, prevent collusion. That, he thought, was all that was necessary. But the honorable gentleman was prudently silent as to the latter paragraph of the clause, about the intervention of the Attorney-General and the provision for his costs. As that appeared to him (Mr. Brown) to be an objectionable feature of the Bill, he should object to it in committee. Very extensive powers were given to the Attorney-General, which were quite unnecessary, as any person, no matter who, could intervene during the three months after the decree *nisi* was made, and be heard by the court, to prevent collusion. He presumed that the Bill had been prepared by the Attorney-General. The latter part of the clause gave him power to appear himself or to retain counsel before the court, which might allow costs; and if he should not be fully satisfied therewith, he was entitled to be reimbursed the difference as part of the expenses of his office, in addition to his salary. That was an objectionable feature in the Bill. Not only that; but in case of there being no property to levy upon, on behalf of the husband, the wife's property, if she had any separate interest, was to be levied upon to defray the Attorney-General's claim. He (Mr. Brown) did not refer to the honorable gentleman individually, but to the office. No doubt, honorable gentlemen in the Council who were better acquainted with the law than he, would enlighten the House in committee, if not now, upon the subject; but he should not like the second reading to pass without taking objection to it.

The Hon. D. F. ROBERTS said he thought it would be wise if the honorable gentleman who moved the second reading would not press on the Bill to-day; because, until after the order of the day was read, the Bill was not distributed amongst honorable members. He need hardly speak of the divine right of marriage, and of the difficulty of proving in matters of the kind contemplated by the Bill. The main object of the Bill was to give a single judge power to hear and determine matters of divorce or nullity of marriage, reserving merely the right of appeal to the full court. Hitherto, and from all he knew of the other colonies, the practice corresponded with theirs—all such matters were heard before the three judges;—and, as the law of Queensland now stood, all matters of such consequence ought to be considered and determined by the full court, the highest tribunal of the colony, and not by one judge. The Council were asked to do away with that provision; and, in support of the Bill, it was urged that delay would be cured thereby. Coming to the provision as affecting the Attorney-General, he took it for granted that the learned gentleman was only to act upon notice, if it was brought within his knowledge that collusion had taken place between the parties to a cause before the court. He knew personally of a case of collusion in another colony in which, if notice had been required, it would have gone from this colony. In a matter of such importance, and seeing that the Bill had only just come into the hands of honorable members, it would be wise of the Postmaster-General to postpone it for a week.

The POSTMASTER-GENERAL: The Bill had been in the hands of honorable members for a week.

The Hon. D. F. ROBERTS: He begged to state that the Bill was only handed to honorable members after the motion was moved.

The POSTMASTER-GENERAL: Look at the business paper.

The Hon. D. F. ROBERTS: Never mind. The honorable gentleman could not deny that.

The POSTMASTER-GENERAL: If the Bill, or a measure something like it, should not pass,

there would be a denial of justice in the Supreme Court. The judges could not always make it convenient to sit as a full court. If he was rightly informed, only one judge sat now; and he handed his notes to the other judges. It was perfectly impossible to get the three judges to sit together.

Question put and passed.

OATHS ACT AMENDMENT BILL.

The POSTMASTER-GENERAL moved the second reading of a Bill to amend the laws relating to the administration of Oaths in Courts of Justice. He said he wished to point out that the present Government and the late Government, also, found it absolutely necessary that such a Bill should be brought in to protect people engaged in the pearl fisheries on our north coasts and in the adjacent islands. He could assure honorable members that the outrages committed there had been something frightful, and because witnesses could not be got to swear on our Bible, a denial of justice had occurred in many cases. Not only had murders been committed upon natives, by Europeans, but Europeans had been killed by natives, and the perpetrators had escaped, because witnesses could not be sworn on the Bible. He knew that many honorable members might object that it was necessary such witnesses should be sworn. He might point out that the judge and jury could under the Bill take the evidence of witnesses upon a declaration for what it was worth. No jury would convict upon the uncorroborated evidence of a single native witness; but possibly upon the accumulated evidence of several witnesses, they might convict. The Bill was not a very lengthy one, consisting of six clauses. The first clause prescribed the mode of taking the evidence of persons incompetent, or objecting to take an oath, and gave the declaration which they should make. The third clause referred to the mode of binding interpreters to interpret evidence in certain cases. It was within the knowledge of some honorable gentlemen, that one case here had come to an end solely because the interpreter failed to make the evidence plain to the court, and there was no alternative but dismissal. If the Bill passed, the judge would be empowered not to dismiss; but the accused might be put upon his trial again *de novo*. Further, it would not be allowed to a person accused of the higher offences to escape scot-free. In reference to the third and fourth clauses, he (the Postmaster-General) knew honorable gentlemen would object to the taking of the evidence of aborigines; and he had no objection to a clause being inserted after the second clause, to the effect that the evidence of aboriginal natives of Queensland should not be taken. With that in, he did not himself see that any great objection could be taken to the Bill. No doubt, a Bill of this kind was absolutely needed; and he hoped that honorable members would see their way to allow it to pass, with the addition he had suggested.

The Hon. A. H. BROWN said he should be very sorry if the Bill passed. It had, as the honorable gentleman described it, two remarkable features: one was, that the usual oath should be abolished; and the other was, that interpreters should be received into the courts of law—though they, at times, were very necessary. There were certain objections which he should endeavor to point out. Since the year 600, he thought, we were accustomed to see all evidence taken on oath, and we expected it; and there was no valid objection offered by the Postmaster-General to a custom so wholesome and time-honored amongst British subjects, which was not without its benefit. Only those were permitted to take an oath who believed in a future state, who had a religion, and who believed in an Almighty Creator. He thought that if honorable members reflected that an affirmation offered to a person would be taken in a manner the most unhesitating, when that person would decline to take an oath. In many cases he had seen persons hesitate when an oath was administered who would adopt an affirmation without scruple, apparently. He thought the House ought to adhere to the old principle. He did not see a sufficient justification for removing that protection which the oath gave to all individuals in our courts of law, especially where life was at stake; and he could not see for what consideration that guarantee of safety should be removed. There were other difficulties that he saw in the way of removing the system of the oath. There was the oath of allegiance and the oath of office. Were they to be observed, or were they to be swept away? There was, again, for consideration, in the ordinary courts of justice, the oath taken before a warrant was granted. It was usual in the majority of cases to insist that an information should be sworn. If a person giving evidence was to be relieved from the responsibility of taking his oath, were the House to understand that such other persons as he had suggested were to be relieved from the obligation of their position to take an oath? It seemed to him anomalous that in one case the oath should be insisted upon, and in others dispensed with. The interpreter, he (Mr. Brown) thought, should be bound in as close a manner as possible to give the evidence—"the truth, the whole truth, and nothing but the truth;" and the oath was similarly presented to him, when he was asked to take it upon the book of his creed, and to speak truly. He saw a great difficulty in accepting the interpretation of foreigners, even those who came from centres of civilization in Europe. He referred to Germans, Frenchmen, Danes, Norwegians. He had seen them puzzled as to the interpretation of a word. What could be said of evidence taken under the Bill? True, the Postmaster-General had consented to waive that clause which would

make it competent for aborigines to testify in courts of justice. That when a man was tried for his life, their statements should be accepted—the evidence of a race in the lowest state of barbarism, and in some instances, in this colony, cannibals—was an idea that he quite shuddered at! Could such persons be supposed to comprehend fully the question before them? There was but one answer. He referred to this to show with what carelessness the Bill had been drafted, and how it entirely disregarded the foundation of one of our most valuable institutions under the British Constitution. He thought it would be well for the House to pause before they passed such a measure. Another fatal objection that he saw to receiving the evidence of aliens in every respect, was the difficulty that counsel would have in sifting their evidence. One of the greatest protections to a person tried for his life was that counsel was employed to satisfy himself thoroughly as to the nature and weight of the evidence for the prosecution. Honorable members might presume that the Attorney-General in his capacity of advocate had frequently by his talent and tact relieved an innocent man from a very dangerous position, having elicited evidence of his client's innocence. How was it possible for a person ignorant of the language of the witness to get all the evidence, or to prove to a jury that a man was innocent or guilty? He (Mr. Brown) should be very sorry to see any honorable member of the House arrainged before the Supreme Court upon evidence tendered by men entirely ignorant of our language, sworn or not, and whose testimony could not be perfectly understood frequently by any one in court. It was a very serious question indeed. It was very possible the evidence of one of those men, perhaps not conscious of the importance of his testimony or of the question put to him, would prove fatal to the existence of the accused. Perhaps other honorable members would follow him (Mr. Brown) with more force than he could argue against the Bill. He hoped that the House would pause, at any rate, before passing such an ill-digested, undesirable, and unnecessary Bill. What astonished him most was the voluntary proposition of the honorable gentleman representing the Government that the main clause should be altered, one at which he (Mr. Brown) really shuddered, relative to the testimony of aborigines. If he was so ready to abandon that part of the Bill, it was a proof that the measure was ill-considered.

The POSTMASTER-GENERAL asked to be excused for an explanation. He should have remarked that the first clause of the Bill was the same in substance as a provision in the Kidnapping Act; and the others were to assimilate the practice of the colony with that of the mother country. The Polynesians were under the Polynesian Laborers' Act; so that there would be no great harm in passing the Bill.

The Hon. T. L. MURRAY-PRIOR said he was very glad that the House had somebody like his honorable friend, Mr. Brown, who took notice of the Bills brought before them, and explained as well as he had done his objections to the measure under consideration. He had not seen the Bill before, but he agreed with him in everything the honorable gentleman had said. The first clause was quite sufficient, he thought——

The POSTMASTER-GENERAL: That was from the Kidnapping Act.

The Hon. T. L. MURRAY-PRIOR: That was nothing. If a wrong was once committed, it was no reason why the House should perpetuate it. The clause was as follows:—

"1. If any person called to give evidence in any court of justice whether in a civil or criminal proceeding shall object to take an oath or shall be objected to as incompetent to take an oath for any cause other than ignorance of the nature of an oath such person shall if the presiding judge is satisfied that the taking of an oath would have no binding effect on his conscience make a promise and declaration in the form following or to the like effect *mutatis mutandis*—

"I solemnly promise and declare that the evidence given by me to the court shall be the truth the whole truth and nothing but the truth.

"And any person who having made such promise and declaration shall wilfully and corruptly give false evidence shall be liable to be indicted tried and convicted for perjury."

Any person who could take that declaration was certainly fit to take an oath. He did not know what view legal gentlemen took of it; but it struck him in that way, and he should vote against the second reading of the Bill.

The Hon. W. THORNTON was understood to say that he thought the difference between the proposed declaration and the oath had escaped his honorable friend. In the first place, the courts of justice were sometimes puzzled to know what oath was binding upon witnesses. In the second place, if the Bill passed, whatever the oath might be, or whatever the form, that a witness might take in his own country, he would, as a witness in our courts, make a simple declaration as prescribed; and that it was competent for a person to take, if he had no religion at all; it would be administered to him, no matter who he was. But he could not see that the declaration, or the Bill, would do away with the oath of allegiance. The declaration was simply:—

"I solemnly promise and declare that the evidence given by me to the court shall be the truth the whole truth and nothing but the truth."

It was simply confined to giving evidence in courts of justice. He (Mr. Thornton) was astonished that his honorable friend, Mr. Brown, who had a long experience as a magistrate, should be in favor of the present system of swearing. He thought it was not only objectionable, but in many cases he was

sure it was not binding on the persons who took the oath ;—it was so often done in the lightest possible manner, in the most profane manner, and with as little compunction of conscience as the declaration could possibly be made. One advantage that he saw in the Bill, and that he durst say would not be favorably regarded by other honorable members, was that under its provisions the evidence of aborigines would be taken, which now could not be done. The consequence of this inability he was perfectly satisfied was that many heinous crimes were committed in this vast country which went unpunished. It was possible for a white man to go into a scrub with two blackfellows, and to shoot one of them; and he was perfectly safe from prosecution or punishment, because a blackfellow could not give his testimony in a court. The Bill simplified the law, and substituted a very reasonable declaration for the oath, which, in many cases, as regarded foreigners, it was not possible to make binding on their consciences. It was said to be dangerous to let the aborigines of this country give testimony in courts of justice, in consequence of the low state of depravity in which they were. There was not the slightest danger to be apprehended on that score under the Bill; because, simply, the judge in the case would, in his charge, give the evidence only what weight it was worth, and the jury would regard such testimony as they thought fit. He (Mr. Thornton) had no doubt that the evidence of a blackfellow must be supported by corroborative circumstances before any judge or jury would give it any weight at all. But it would be as good as that of many whitefellows. If the Honorable Mr. Brown had experience in the Petty Debts Court, he would have seen persons who thought themselves of some consideration and fit for any position in society, swearing opposite to one another in such a way that the conclusion was forced upon any person that one or other must have slight regard for an oath. Good would come of the Bill, if it passed; and the admission of the testimony of aborigines would have the effect of making men more cautious how they committed acts of violence. He should support the Bill.

The Hon. W. WILSON said he thought the Bill was rather necessary in a colony such as this, where there was a very mixed population; besides Europeans, there were Chinamen, Kanakas, and, as there was talk of annexing New Guinea, there would be people from that country. It was desirable that their evidence should be taken in the courts for what it was worth. He should support the second reading of the Bill.

The Hon. E. I. C. BROWNE said he believed the Bill had arisen out of a case which lately came before the criminal court of the colony, to which, however, he should not more particularly allude, as it would hardly be right to do so, even under a member's privilege, which he should be sorry to abuse. In that case, it was considered that if certain evidence could have been taken, a capital conviction for very fearful crimes might have followed. But, at the same time, there was always danger in legislating for particular and peculiar cases. Neither did he see how the Bill, if it was really made to meet such cases, would have the effect desired; because, in any similar case that might occur hereafter, the evidence would have to be taken of persons ignorant of an oath and of how it was binding. How would such persons be able to understand the language of the four lines in the Bill which embraced the declaration? How was it possible that an interpreter, perhaps equally ignorant of an oath and its obligation, could put it into his language? And, how—as he (Mr. Browne) understood it, the declaration was to be given in the words of the clause—was the interpreter to make a witness so ignorant as that he did not understand the nature of an oath, comprehend the force of the declaration? It seemed to him that the Bill, if it was brought in for that purpose, would fail. As to what had fallen from the honorable member, Mr. Brown, the Bill referred merely to matters in the administration of justice. Officials would still be called upon to take the usual oaths that they took now; and they would not be included in the category of persons in regard to whom the Bill would operate.

The Hon. A. H. BROWN: He only mentioned them by way of contrast.

The Hon. E. I. C. BROWNE: The honorable Mr. Thornton had expressed a desire that the evidence of aborigines should be taken. It was quite possible that because such evidence could not be taken justice had been defeated. His experience of aborigines and savages had not been so intimate as that of his honorable friend;——

The Hon. W. THORNTON: Hear, hear.

The Hon. E. I. C. BROWNE: But, from what he had heard and read of savages, whether of this country or any other, he believed that in most cases it was impossible almost to make a perfectly untutored savage understand what speaking the truth was—he would really give an answer such as he thought it was desired he should give, and such as he thought would please his interrogator. If that was the case, it was best not to take his evidence. The Honorable Mr. Brown had advanced one objection to the Bill, from which he seemed to consider that a new system was introduced of having interpreters in criminal cases. Interpreters were always employed; so that in that respect the Bill would make no alteration in the law. All that the Bill proposed was a different mode of binding them to interpret; a declaration was to be taken to interpret truly, instead of an oath. He should not oppose the Bill, but he must confess that he did not put much value on it.

The Hon. H. G. SIMPSON confessed that to his mind the Bill did not in any way meet the point which he always thought should be regarded in this country: that was, the inconsistency of taking any statement of a white man, and allowing it all possible weight, and no statement whatever of any savage as being worth anything at all. He thought himself—he supposed it was contrary to legal principles to say so—that it was but common justice that some provision should be made by which the evidence of such people as he last referred to should be taken, of course, under the correction of the presiding judge, who would direct the court as to how it was to be considered, and what it was worth. It should be admitted in some form; but to admit it as was proposed under the Bill would be to give the statements of savages, which the House knew were not much to be relied upon, though in certain extraordinary cases they might be very valuable, the same weight as the best of what he should call European testimony; which he thought was not a state of things that was required, and could not be permitted for a moment; it would be absolutely pernicious. Therefore, seeing very little good to be got out of the Bill, he should not support the second reading.

The Hon. F. T. GREGORY said the question seemed to him to be very simple. As our courts of law were now constituted, a man could not be examined and his evidence taken except on oath. The object of the Bill was to allow evidence to be taken upon a promise or declaration, on the part of the person examined, to speak the truth; to allow a witness who could not be sworn, who was incompetent or too ignorant to take an oath, to give evidence in court, upon making the declaration prescribed. He put it to the House, practically, whether any beneficial results were likely to accrue from such a change? No doubt, he had himself experienced in courts of law cases in which, if evidence could have been produced, the true merits could have been arrived at; but, in consequence of legal technicalities, that evidence could not be availed of. He was not now dealing with criminal cases. The evidence could not be given; consequently, certain facts were concealed, which prevented true justice being done as between the parties. If by the passing of the Bill simple evidence of facts could be received to enable the court to proceed upon more substantial evidence, to put the court on the right track to do substantial justice, that would be the most beneficial effect. However, he could not hope for that; and he quite agreed with honorable members that a pernicious effect would follow. If it were possible to pass a measure which would enable courts of law to hear statements as statements only, so that they could not be used as evidence, but really to assist in getting at the truth, that would meet the case desired better than the Bill. He was opposed to the Bill as it stood; he should support it if it could meet the point he referred to, that of allowing a statement to be made without its being received as evidence. Honorable members would see the point. It was no use embarrassing the statutes of the country with amendments of Acts from which no possible benefit could come. He therefore begged to move, by way of amendment on the motion—

That this Bill be read a second time this day six months.

The question was put, and the amendment was affirmed.

APPEALS FROM JUSTICES BILL.

The House resolved into a Committee of the Whole for the consideration of this Bill.

On the first clause being moved by the POSTMASTER-GENERAL,

The Hon. T. L. MURRAY-PRIOR asked for the postponement of the Bill, as he had doubts as to some of the clauses and desired to read it again.

The POSTMASTER-GENERAL said the Bill was read a second time a week ago, and it was received by the Council a week before that. There was no need for postponement, as, if the honorable member pointed out any clause to which he objected, it could be explained to him.

The Hon. T. L. MURRAY-PRIOR moved that the Chairman report progress.

The POSTMASTER-GENERAL: The honorable gentleman required about ten times as long as anyone else to study Bills; but he could give no reason why the committee should give up the consideration of the Bill.

After some discussion, the amendment was put and agreed to, and the House resumed. The Chairman reported progress, and leave was given for the committee to sit again next day.

PARLIAMENTARY BUILDINGS BILL.

The PRESIDENT said: Honorable gentlemen—It is my duty to bring under your notice the next order of the day, and to move the second reading of "a Bill to vest the Parliamentary Buildings in the President of the Legislative Council and Speaker of the Legislative Assembly." I must remind you that, during last session, upon a motion of mine, a joint committee of the two Houses were appointed to consider and examine

"The plans now existing for the completion of Parliament House, and to report the result of such examination, and any recommendation they may arrive at; also, to examine into and report on the tenure under which the land supposed to be dedicated to the uses of Parliament is now held."

It had occurred to me previously to that, that there was really no secure tenure whatever of the land upon which these buildings are placed; and that we might at times be subjected to considerable inconvenience therefrom. No doubt, in ordinary cases no

difficulty would occur. We sit here without any anxiety as to the tenure under which we reign. But, on examining the then Surveyor-General, it appeared to the joint committee that the land upon which these buildings have been placed was dedicated to the purposes of the Parliament by a simple memorandum sent to the Surveyor-General himself, under which he drew out the plan of the ground and submitted it to the architects who had to bring forward their designs for the buildings; and from that time to the present, there seems to have been no further authority for the dedication of the land. These questions were put to the Surveyor-General, and they are accompanied by his answers:—

"Do you recollect if, at the time the Parliamentary Buildings Commission was in existence, you received directions from the Government to prepare plans of the ground on which it was proposed to erect the Parliament House? Yes.

"Did you prepare such plans? I did prepare those plans.

"Are they on record in your office? No. They were compiled from records in the office, the original memo. of which I produce. [*Plan put in —Appendix B*]

"The Parliament House was eventually erected upon that site of which you prepared plans? Yes.

"Did you receive instructions to prepare a description for a deed of grant in reference to that land? No; I have not received instructions, nor has any deed been prepared; because the record of all deeds that are issued passes through my office.

"Are you aware of any other authority than that of the permission of the Executive for the time being under which these buildings are occupied? I think, as far as the records of my office go, they are simply Executive instructions to set the land apart."

That, on further examination of Mr. Gregory, appeared to be the state of the case—that the land upon which these buildings are placed is held merely and simply under Executive instructions to set the land apart. Now, considering the great expense that has been gone to, and the authority and dignity of Parliament, it seems hardly suitable that we should hold these buildings simply by Executive authority, which, on a change of Ministers, might be altered; and it seemed to the committee, therefore, desirable that a Bill should be introduced to give validity to the title under which this land is held. The committee reported—and I must remind honorable members that the report was adopted by both Houses of Parliament—as follows:—

"That a short Bill should be introduced, and, if agreed to, passed into law, to set apart beyond any future question the land now occupied as devoted to the uses of the Parliament of this colony."

Many honorable members, here, will no doubt recollect, that when in the old building which we originally occupied, great inconvenience was felt from the noise of the traffic passing through the street in front; and that, when this portion of the town was selected as the site of the new buildings, one great advantage apparent was that of being free from the noise and confusion caused by a large traffic in the streets immediately below the buildings. If we have not the power to maintain, or the right of law to maintain, the ownership of the ground, the Executive might, on any day, dedicate any portion of this ground to some other purpose; and we might be exposed again to the annoyance that we escaped from at very considerable expense to the country. I must tell honorable members that, according to the evidence of the Surveyor-General, there has been already an attempt made to set apart a portion of the ground for the use of the corporation; that being a portion of the frontage to the river, which was given to the Municipal Corporation of the City of Brisbane, to use temporarily, if required, for a bath-house. And that was done without any reference to Parliament, or any attempt to receive the authority of Parliament for such action. Now, if this Bill becomes law, I presume that it will not be possible for the Executive of the day to remove from its present dedication any portion of the land which is now occupied for the purposes of Parliament, without the sanction of Parliament. The Bill was drafted by the late Surveyor-General, at the request of the committee; it is the one which I have presented to the House, and which I now move the second reading of, just as he prepared it. The President of the Legislative Council and the Speaker of the Legislative Assembly for the time being are named as the trustees of the land and buildings, because it is thought that they are the officers who are influenced most by considerations of interest for what pertains to Parliament. I think it is desirable to pass this Bill. Whether it is of very great importance or not, is not a question upon which I will enlarge. Supposing for the moment anybody entered upon this land, I fancy that the disposing of him would be of considerable difficulty. We should have to appeal by address to the Governor to put the Attorney-General in motion. The Parliament Houses are not held as the Office of the Secretary for Public Lands, the Secretary for Public Works, or the Postmaster-General is held; because the Minister for the time being is the ostensible owner—there is a specified proprietary. But Parliament is a composite body. I do not know who could act for it, unless a measure of some sort should pass, such as this before us, supposing the rights of Parliament were invaded by the intrusion of some one on the land. For this reason, I think, myself, that it is desirable that such a measure as this should pass, vesting what is necessary to be vested in the hands of the official heads of the Parliament for the time being.

The POSTMASTER-GENERAL said, for himself personally, he had no very great objection to the Bill. He observed that it proposed not only to vest the buildings, but also a large quantity of land, nearly five and a-half acres, in the President and the Speaker as trustees for the Parliament. Honorable members knew very well, that although the land was not very valuable at present, yet the time might come, and it would come quickly, when the land, now worth £2 or £3 a foot, would be worth £100 a foot. That being the case, and seeing that it was contemplated that a tramway should be run along the bank of the river, and such a work being probable, he did not think it would be wise to sanction the vesting of such a large piece of land as the Parliamentary Reserve in the manner proposed. He did not think the House would be acting wisely in so doing. Parliament had done very well in time past, and no intruders upon the land or the buildings had been heard of; nor was it likely that any intrusion would come to the knowledge of honorable members. He cautioned honorable members that it would be very difficult to get the land back again, suppose it was wanted for wharfage sites: and he warned them that it would be wanted very quickly for that purpose. He should not oppose the Bill, but he questioned the utility of it.

The Hon. H. G. SIMPSON said the Postmaster-General seemed to fear that some dreadful accident or wrong would occur to the wharfage of Brisbane, in case a part of the river bank below the Parliament Houses should be vested in the Parliament of the country instead of in the Executive Government. For his (Captain Simpson's) own part, he confessed that it was much safer in the hands of the Parliament than in the Government of the day.

The Hon. A. H. BROWN: Hear, hear.

The Hon. H. G. SIMPSON: He supposed that was because he thought it monstrous that not only the Parliament Houses themselves, but every thing connected with them, even the interior fittings, even to a mat laid down in a passage, were in the hands of a Minister, who could come in and say, "You shall have this, or that, and you shall have no more." Such, in fact, was the case; but in no other country that he was aware of, was the Parliament placed in such a position as it occupied in this colony, in relation to the Executive. In England, each House of Parliament had only to say what it required, and it was done without question. Here, things were very different. Another place, he found, could get things done to a certain extent, because party pressure could be brought upon the Ministry of the day; but the Council had tried over and over again to get things that were urgently required, and they were simply told—in fact, they got no answer whatever—they were not even favored with the slightest notice of their representations—they could not get their wants attended to. It was high time that a stop should be put to such a state of things.

HONORABLE MEMBERS: Hear, hear.

The Hon. H. G. SIMPSON: If the Postmaster-General could not bring a better objection against the Bill than that the land might be required to be transferred by-and-bye for wharfage, and seeing that it would be safe in the hands of Parliament, he had best make no objection at all. He (Captain Simpson) was quite sure that the Parliament of the country would be quite as willing as any Executive Government to devote land, if required, for any wise purpose; and therefore he most strongly supported the Bill, and as far as he could, he should do his best to bring it into force. If it should be thrown out in another place, through the influence of the Government, the Council could not help it;—at all events, they should feel that they had made their protest against the system that had prevailed too long.

The Hon. F. T. GREGORY said, after the very lucid exposition of the whole question given by the President, he should not have risen but for the remarks of the Postmaster-General, which reminded him that there were some other questions to be considered in favor of the vesting of the buildings as soon as possible in the President and the Speaker. He had just been referring to the Parliamentary Buildings Act, and it appeared to him that the Parliament ran very great risk—though he would not say positively—under the powers the Government had under that Act, of having the land sold and seeing the proceeds go into the pockets of the Corporation of the City of Brisbane. Honorable members knew that the finances of the country and of the city were not in a very flourishing state, and the Parliamentary property generally would be a very nice nest-egg to fall back upon. As to the conditions under which the land was to be resumed, attention had been already drawn to the fact that it was desirable to get out of the reach of the noise of traffic, which was such an annoyance in the old Parliament Chambers, and which was a great trouble now during the sittings of the Supreme Court, where the proceedings were sometimes interrupted by reason of its being impossible to hear what was going on in the court. He fully agreed with the desirableness of the Bill; indeed, it was very necessary. Should the requirements of the colony at any future period necessitate the appropriation of a portion of the land for wharves, it would be quite time for an Act of Parliament to be framed for such a purpose. In the meantime, he thought the House would be adopting the only wise course open to them in getting the land and the Parliament Houses vested as proposed by the Bill.

The Hon. A. H. BROWN said he thought honorable members must give the President credit for trying, in the position he held, to protect the Parliament from being intruded upon by the proposed tramway along the

bank of the river. He should take this opportunity of expressing the hope that he should never see that done, or any portion of the Gardens used for any such purpose. Perhaps, as a non-resident of Brisbane, he felt more strongly upon that subject than he had heard any of the citizens express themselves; but for them, also, he spoke. There was some idea that the tramway would be profitable, along the Gardens. He should be very sorry to see the Gardens resumed for such a purpose. They were the only attraction that Brisbane presented; but they were such an attraction as it was the duty of the citizens to preserve. For wharfage, there was abundance of room, either on this side or the south side of the river, for years to come. He presumed that the Bill proposed to vest the Parliamentary Buildings and land in the President and the Speaker as a territorial trusteeship, to pass over to their successors, upon their leaving office—which he hoped might be long withheld. It was, he thought, very essential that some security should be given to Parliament over the buildings the Houses now occupied and the surrounding ground. The Honorable Mr. Gregory introduced, the other day, certain resolutions which possibly it might be necessary for the House to adopt. They went to show that the tenure of land in this colony was in a peculiar position, and, goodness knew how it would terminate. He urged that the sooner the security was made definite the better. As regarded the land in the Parliament Reserve, he did not know that it was extremely important that it should extend to the river; but if it was the opinion of the House that the Government would consent to transfer the whole to Parliament, so much the better. It might be safely vested as proposed. At any time that it should be needed, Parliament would restore it. He urged that the Bill should be passed by the House, so that there should be security for the Parliament in the ownership of their buildings and grounds. The wording of the Bill was rather indefinite;—it did not say by whom the property was conveyed; but he supposed that an Act of Parliament was looked upon as completely effective. He should certainly vote for the second reading of the Bill.

The Hon. G. HARRIS said he saw no objection to the land on which the Parliamentary Buildings were erected being vested in the President and the Speaker, provided that a sufficient reserve was made, that, in the event of a railway or tramway being carried round the river frontage to the Gas Works, it could be taken along the bank in that locality. That, he thought, was necessary; and that the time was rapidly approaching when such a reserve would be required for wharfage purposes, and for connecting the extending railway with the wharves of the city. He hoped the mover of the Bill would, in committee, make some reservation to meet that very necessary object. Generally, he agreed with the provisions of the Bill, and he should support the second reading, on the understanding that some such provision as he had suggested would be made,

The Hon. A. B. BUCHANAN said, that for the information of the Postmaster-General and the Honorable G. Harris, who had objections to the Bill, he might point out that provision was made to meet their requirements. The land on which the Parliamentary Buildings stood was to be vested as proposed—

"exclusive of a reserve one chain wide for road or railway purposes, along the bank of the Brisbane River."

That reservation was part of the schedule.

The Hon. W. WILSON said he thought the Bill most desirable, if it should secure the whole of the land for the uses of Parliament; and that the only objectionable part was the reservation for a road or railway. In his opinion, it was advisable to shut that out, so as to prevent the Gardens being touched at all. He should vote for the second reading of the Bill, in the hope of getting the reservation struck out of the schedule.

Question put and passed.