Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 28 JULY 1875

LEGISLATIVE COUNCIL.

Wednesday, 28 *July*, 1875.

Assent to Bills.—The Navigation Bill of last Session.—Land Laws Interpretation Bill.—Adjournment.

ASSENT TO BILLS.

Messages from the Governor were received informing the House that His Excellency had assented to the following Bills:—

Encouragement to Native Industries Act Repeal Bill.

Cook District Representation Bill.

THE NAVIGATION BILL OF LAST SESSION.

The Hon. H. G. SIMPSON asked the representative of the Government in the Council—

1. What has become of the Navigation Bill of last session?

2. Will the Honorable the Postmaster-General lay on the table all despatches received from the Secretary of State referring to it?

3. What steps do the Government intend to take with reference to the Bill?

The POSTMASTER-GENERAL answered—

1. Her Majesty has been advised not to give her assent to the Bill.

2. Despatches must be moved for by address to His Excellency the Governor.

3. The Government do not propose to deal with the matter during the present session.

The Hon. H. G. SIMPSON: In consequence of the reply given to him by the Postmaster-General, he should give notice that, to-morrow, he would move—

That an Address be presented to His Excellency the Governor, praying that His Excellency will be pleased to cause to be laid on the table of this House, copies of all despatches and papers received from the Secretary of State with reference to the Navigation Bill of 1874.

He did not know whether he should be out of order in moving the adjournment of the House, to make an explanation.

The PRESIDENT: Yes. As the honorable gentleman had given notice of a motion, he could not do so.

The Hon. H. G. SIMPSON: With reference to this question?

The PRESIDENT: No.

LAND LAWS INTERPRETATION BILL.

On the Order of the Day being called for the second reading of this Bill,

The POSTMASTER-GENERAL said, he should be the last man in the world to rise in the Council to control in any way the powers possessed by honorable gentlemen; but still, on the present occasion, he did not think it would be wise on the part of the House to proceed further with the Bill; for he contended that, in all respects, it was a money Bill.

The PRESIDENT: Was the honorable member speaking to a point of order?

The POSTMASTER-GENERAL: He rose to a point of order.

The PRESIDENT: He did not understand what the point of order was that the honorable gentleman had risen to address the House upon.

The POSTMASTER-GENERAL: The point of order was, that the Bill was out of order—it was a money Bill, and should have originated in the Legislative Assembly, and in Committee of the Whole of that House. He would point out to honorable gentlemen that, last session, two Bills were initiated and passed by the Council, the Navigation Bill and the Gold Mining Companies Bill, which both embodied the same principle as the Council were asked to deal with in the Bill now before them. The Navigation Bill was objected to in the other House, and ruled out of order by the Speaker, because it was, to all intents and purposes, a money Bill which imposed fines and penalties, or burdens, on the people, and which could not be originated in the Council. It was subsequently introduced

upon resolution passed in Committee of the Whole in the Assembly, and sent up to the Council to be passed. The Gold Mining Companies Bill was dropped off the paper of the Assembly after it had been sent down by the Council; because it was a measure that should have originated in the representative House only, there being in the Bill a schedule of fees to be paid into the consolidated revenue, though the Council had left that schedule blank. Now, under the eleventh and twelfth clauses of the Bill before the House, it was proposed that certain fines should be imposed upon persons not complying with the conditions of the existing law. Those fines would go to the general revenue. Further, it was proposed that fees should be paid to the Boards to be appointed under the Bill, which would entail an expenditure upon the country of something like £10,000 or £12,000 a-year. That would come out of the consolidated revenue. Consequently, the Bill was a money Bill, and such a one as should certainly have originated in another place. To bear out his remarks, he should read an extract from Cushing, who was an authority upon all matters of legislation, and who would convince honorable members of the soundness of the position he took up:—

"The House of Commons, by precedent and usage, particularly since the time of the restoration, has asserted and maintained its right to begin Bills of Supply, and all other Bills for imposing any pecuniary charge or burden upon the people; and the House of Lords has now for many years desisted either from beginning any Bill or from making amendments to any passed in the other branch, which either in the form of positive taxes, or pecuniary penalties, or in any other shape, might by construction be considered as imposing burdens upon the people."

Which he (the Postmaster-General) contended the present Bill did:—

"This rule extends in practice to all Bills and provisions in Bills affecting the public revenue"——

of course, the Bill affected the public revenue, to the extent of £10,000 or £12,000, as he would show in committee;—

"to all such as impose any rate, toll, or duty, pecuniary penalty, fine, or fee; and to all Bills containing provisions which in their consequences necessarily increase or diminish any previously existing rate, toll, or duty; but it does not extend to Bills for imposing or removing personal disabilities, incapacities, or punishments."

The Council could not originate money Bills, and should not have originated the Bill now before the House.

The PRESIDENT: I may as well inform the honorable member that I think he is out of order in opposing the Bill at this stage. All the objections to which he has referred may be remedied. It is competent for any honorable member of this Council to introduce a Bill, and during its passage through the House, if there are any objectionable clauses which interfere with the constitutional rights of the other House, they can be eliminated, and the Bill may become one which it is quite competent for the Council to proceed with and to send down for the concurrence of the Legislative Assembly. It must be remembered that the House have ordered that this Bill shall proceed to the second reading; that it is one which has been prepared in compliance with an order of the Council; and that the House are justified in proceeding with the Bill.

The POSTMASTER-GENERAL: It was in the experience of the House that the Mining Companies Bill was not accepted by the other House because it contained certain provisions which affected the privileges of the Assembly. Even though blanks were left in the provisions which were questioned, the other House refused to pass those provisions.

The Hon. A. H. BROWN said the honorable gentleman had been ruled out of order.

The PRESIDENT: I think the honorable member is out of order in arguing the matter at this period.

The Hon. F. T. GREGORY said he was not at all sorry to find, on his rising to move the second reading of the Bill, that the Postmaster-General had to a certain extent forestalled him in regard to an explanation connected with the power of the House to deal with a measure of the nature of that now before them. It was not likely that, in drawing up the Bill, the Select Committee appointed to that duty would neglect altogether to look into the question of privilege which was connected with the present proceeding; and he took upon himself, as chairman of that committee, to state that he more especially took trouble to look into it. He found various passages in May's "Practice" which would show that it was fully competent for the Council to introduce Bills with the clauses framed as they were in the Bill of which he had charge, or with a few alterations which he intended to suggest or absolutely move in committee after full discussion. But he should now be content with making the following quotation:—

"It is sometimes convenient that a Bill, intended to contain provisions of this character"——

that was, money clauses—

"should be first introduced into the House of Lords; in which case the Bill is presented and printed, with all the necessary provisions for giving full effect to its object, and is considered and discussed in the House of Lords in that form. But on the third reading, any provisions which infringe upon the privileges of the Commons are struck out, and the Bill having been drawn so as to be intelligible after their omission, is sent to the Commons without them. These provisions, however, are printed by the Commons in red ink, with a note that they 'are proposed to be inserted in committee.' According to the usual rule, they are supposed to be in blank: they form no part of the Bill received

formally from the House of Lords, and no privilege is violated: but the Commons are thus put in possession of a Bill containing every provision which will be necessary for giving it full effect; and in committee the words printed in red ink, if approved of, are inserted."

He thought that met the objection of the Postmaster-General.

The POSTMASTER-GENERAL: That was done last session, and it was no good.

The Hon. F. T. GREGORY: In support of the second reading of the Bill, he should now proceed to point out a few of the causes which had led to its introduction. Honorable gentlemen were all fully aware that at the commencement of this session the Governor, or His Excellency's advisers, put first and foremost of the measures of the highest importance for the consideration of the country, a measure of land reform; they promised the country that some steps should be taken to place the land laws upon a proper footing. How far had that promise been kept? It was quite clear that, with the exception of laying on the table of the Assembly two Bills, copies of which had been furnished to honorable members of the Council—one purporting to be a Crown Lands Alienation Bill and the other a Selectors' Relief Bill—nothing had been done. Those measures continued to drag out a bare existence. One had got to a second reading, after very great opposition, and with objections made to almost every clause. Nothing further was done. There was a promise, now, of the session drawing to a close, and no result had followed the introduction of those measures. Under the circumstances, honorable members were induced naturally to look about them to see whether some means could not be adopted to prevent the session passing by without some resolute steps being taken to amend the existing land laws in the way so essentially required by the country. He would not further attempt to criticise the measures of the Government, which had so far proved to be cyphers and and in no way of value to the requirements of the country, than to observe, that the Selectors' Relief Bill was a misnomer. When honorable members looked into that measure, it was one simply to increase the powers of the Government of the day. There was in it no relief, nor anything in the shape of relief, for selectors. The course pursued by the Ministry prior to the meeting of Parliament showed that they preferred to embarrass the selectors by taking them into courts of law. That was not relief. As to the other measure, it was a mere shadow, the ghost, of a Bill: some reference was made in it to a slight enlargement of homesteads, and it contained a clause connected with auction sales, which, as far as he read, was no advance upon the existing law. There was now power to dispose of the public lands at auction. Well, the unsatisfactory state of affairs that he described had led to the introduction by himself of the series of resolutions which had been six or seven weeks before the Council, and which he had sincerely hoped would have sufficiently drawn the attention of the Government to the question at issue, and rendered it necessary for them to have done something more. But, as honorable members were aware, his action had resulted in the appointment of the Select Committee to draw up the Bill which was before the House, and which he should now make a few comments upon. In the first instance, he was quite willing to confess that he saw some minor defects and omissions in the Bill as it now stood. Probably he was in some degree personally responsible for them as the chairman of the committee, and as having taken an active part in framing the Bill; but they were very slight and immaterial. The second clause, which provided for the appointment of the Central Board, was somewhat different from the original resolution upon which it was based, and which proposed to go a little further than the clause. For the modification, however, there was some good reason. Two members of the Board were to be appointed by resolution of each House: the word "appointed" might, with advantage, be omitted, and the word "nominated" inserted in place of it, in the fifth and tenth lines of the clause. He was aware that the objection which ought, first, to have been stated to the clause was, that it was unconstitutional. The words of the 14th clause of the Constitution Act would certainly appear to imply that all appointments should be made absolutely by the Governor in Council. He was quite sure that honorable members of the Council had no wish whatever to trespass on the prerogative of the Crown or the Executive in any way; and, in order to meet the case, he should propose in committee to alter the wording of the second clause, as he had pointed out. Other amendments were merely the omission of words which appeared to be redundant, and which in one or two instances might tend to embarrass the clear understanding of the Bill, and were non-essential. The next main feature of the Bill, after the appointment of the Central Board and of the District Board, was the enabling of selectors against whom proceedings had been taken in the Supreme Court, to have their cases withdrawn and placed under the board. He thought the fifth clause a very essential provision, to enable the board to carry out the intention of the existing law. It was not in any way an attempt to trespass upon any rights, powers, or privileges, connected with so dignified and important a tribunal as the Supreme Court of the colony; and he thought the wording of the clause was such that not even the most fastidious could see in it anything against the prerogative of so high a court. Clause eight provided for a certificate of partial fulfilment of conditions on the part of the selector being granted by the board. The

interim certificates were, he thought, necessary. Taking the time over which leases extended, there would be great risk in getting witnesses at the end of the term: witnesses might have left the country, or died, or might be in some way not procurable. There was no such provision in the Act of 1868; but he thought its enactment would greatly assist in protecting selectors, as showing that they had so far fulfilled their conditions. The ninth clause also was connected with the removal of cases from the jurisdiction of the Supreme Court. He had provided carefully against any claim for damages, in cases already gone into; in other words, the selector who elected to come under the Bill to have his case adjudicated upon, must relinquish all claims for damages as against the Government, and must bind himself to abide by the decision of the board; but he was fairly entitled to his costs, if the decision should be in his favor. The tenth and eleventh clauses contained a very important and essential part of the Bill—relief to selectors, such as he (Mr. Gregory) had not seen in any of the measures which were now before the country. The tenth clause provided that selectors under the Leasing Act of 1866 who had failed to fulfil the conditions of improvement within the time limited by that Act, could defeat forfeiture by paying a heavy fine per acre for each and every year during which they had so failed, up to the close of the present year or on the expiry of the leases falling at a later period. Practically, under the clause, selectors would have to pay double for their lands for every year of failure to comply with the conditions of cultivation and improvement. By the eleventh clause, relief was afforded to selectors under the Alienation Act of 1868. Any selector holding lands under that Act

"who shall have failed in the fulfilment of either the conditions of residence or improvement required by the provisions of said Act may defeat forfeiture by paying to the land agent a sum equal to *one shilling and sixpence* per acre for agricultural land *one shilling* per acre for first-class pastoral and *sixpence* per acre for second-class pastoral land in addition to the annual rents for each and every year during which he has so failed until the expiration of his lease Provided that in case the selector shall have failed both in conditions of residence and improvement he shall pay a sum equal to *double the amount* hereinbefore provided in addition to the amounts of annual rent and deed fee to entitle him to a deed of grant in fee simple."

A further proviso gave liberty to a selector whose land had been declared forfeited for non-fulfilment of the conditions to avail himself of this provision within six months of the Bill becoming law, if his land should not have been sold or appropriated to some public purpose. It must be clear to any one that a person would sooner pay the fines for his own land than have his previous outlay go to the Government. Failure of improvement might have resulted from some cause over which the selector had had little or no control. Non-residence might fairly be compounded for as provided, by a penalty equivalent to the amount per acre that would be paid for non-fulfilment of conditions of improvement. He durst say there might be some peculiarity to evoke objection to the clause, or honorable members might take exception to the amount of penalty as too high; and possibly some modification might be made. He was quite prepared to take the opinion of the House upon it, when the Bill got into committee. As to the question raised by the Postmaster-General with regard to the Bill being a money Bill and trenching upon the privileges of the other House of Parliament, he should propose in committee to remove the last two paragraphs of clause twelve of the Bill, regarding the receipt of salaries, fees, &c., by the members of the central and local boards, and the payment of all moneys under the Act into the consolidated revenue. The last provision was unnecessary to be introduced formally into the Bill, as there was an Act in existence, which he had not been able to lay his hands on, which provided that moneys received in any branch of the public service should go into the Treasury. He should remodel the clause in regard to those sub-sections; so that the only clauses of the Bill in which the money question would be at issue were the tenth and eleventh, in respect to which the House could adopt the practice pointed out by May. The whole subject had been so long before the House, and so often spoken to by himself and other honorable members, that he should not further detain the House, but move—

That the Bill be now read a second time.

The POSTMASTER-GENERAL: Did he understand from the President that the honorable gentleman could move that the Bill be read?

The PRESIDENT: It is the privilege of any honorable member of this House to propose any Bill which he thinks proper to bring before the Council. It is for the House to decide whether we have the power to pass it.

The POSTMASTER-GENERAL: In rising to oppose the Bill, he might observe that it should have originated in another place; and not only that, but in Committee of the Whole House. The Council had before passed the Navigation Bill and the Gold Mining Companies Bill, which were sent to the waste-paper basket, because they had been initiated in the Council and not in the Assembly. The Stamp Duties Bill was originated in the Legislative Assembly of New South Wales, and after being debated about a month in that House, it was thrown overboard upon a point of order raised: because, as the Speaker ruled, it should have originated in committee of the whole. In proof of his (the Postmaster-General's) assertion that the Bill now before the Council would impose burdens on the people, he referred to the fixed salaries for

the Central Board and the fees for the local boards; and he contended that the Bill would saddle the country with an expenditure of £10,000 or £12,000 a year. He looked upon the measure as purely a "billet" Bill. No such Bill would be originated in the other House, or in any House but the Council of which the honorable gentleman who had charge of it was a member. It would not be wise on the part of the House to pass it. The Bill was full of anomalies; and in support of this assertion he pointed to the second clause, which in itself afforded a sufficient reason why the House should postpone the consideration of the Bill until this day six months. A Government Land Bill was, at the present time, under consideration in another place; and that Bill would make clear the fifty-first section and its subsequent sections of the Crown Lands Alienation Act of 1868. That, he contended, would answer every purpose which the public out of doors required the law to be amended for. The declaratory clause of the Bill he had referred to would take away all power from the Minister for Lands, and place it in the hands of the commissioners. He (the Postmaster-General) had heard the Honorable Mr. Gregory and other honorable members of the Council clamor for that. He had shown the clause to land commissioners and other persons connected with the lands of the colony, and they one and all approved of it. It would be sufficient for the country. The Government Bill would not interfere with the powers of the commissioners; but the Bill before the Council not only proposed to do away with the powers of the commissioners, but to put it into the hands of the Central Board. What was the good of a local board, with the commissioner as chairman, if there was to be no finality to their proceedings?—they must send the evidence they might take to the Central Board. If the members of the Local Board were to receive a guinea a day, they would sit three hundred days in the year. There were eight districts, and four members of a local board for each—the commissioners would not, of course, be paid. The expense of those boards would be, say, £10,000 a year—to do nothing but take evidence. Then came the Central Board, two members, and the Minister for Lands presiding: those members would have about £1,000 a year each. That would raise the expense to £12,000 at once, without travelling and other expenses. The whole proposal was the greatest absurdity that he ever heard of in his life. Why could not the commissioners take the evidence and send it down now to head quarters? Why saddle the country with such unnecessary expenditure as that proposed by the Bill? The tenth clause of the Bill imposed penalties upon defaulting selectors. He (the Postmaster-General) asked the honorable gentleman who had charge of the Bill, who was to be the judge of the term during which the conditions had been fulfilled, and when they had not been complied with by the selector? How were the Government to find out up to what particular date or period the conditions had been fulfilled, and how they had not been complied with afterwards? Those clauses were perfectly absurd; they would, if passed, lead to endless litigation, and there would be no end to the commission of perjury under them. They carried their own condemnation on their face. He could say that he had often heard it stated in the House that the commissioners' courts had given great satisfaction; and he knew that they had. They were open to the public; due notice was given of their sittings; all persons could attend to hear the evidence in open court; and it was in the power of any one to lodge a caveat against the granting of a certificate of fulfilment of conditions. The commissioners need not only take the evidence tendered in court; but they could go and see for themselves—as they almost invariably did—if the improvements required had been carried out. In fact, every precaution was taken to ensure the fulfilment of conditions, before the commissioners would issue a certificate; and the proceedings of the land courts throughout the colony were giving the greatest satisfaction, more especially in East and West Moreton and Darling Downs.

The Hon. A. H. BROWN: What about Wide Bay?

The POSTMASTER-GENERAL: What was the use of the Bill? It was known that though a selector had a certificate of fulfilment, yet it did not relieve him from compliance with the conditions—he must keep his bailiff on the land or himself reside there, unless he chose to pay up the purchase money, as provided under the fifty-first section of the Act of 1868;—and he would get his deed of grant, provided he held his land honestly. He (the Postmaster-General) hoped the House would see their way not to adopt the Bill. Such a measure would be laughed at outside by all thinking people. It was one to saddle the country with a large annual expenditure for the support of place-hunters and seekers after billets; and he had no hesitation in saying that it would be scouted by every one outside the Council.

The Hon. J. TAYLOR asked, if that was language to be used towards honorable members who had brought in the Bill?

The PRESIDENT: I do not think the honorable member is out of order.

HONORABLE MEMBERS: Hear, hear.

The POSTMASTER-GENERAL: He said merely how he thought the Bill would be regarded out of doors. He gave his own impression; and he contended that the Bill ought to be thrown out. By way of amendment, he now moved—

That the word "now" be omitted, with the view to add at the end of the question, "this day six months."

The Hon. L. HOPE said that, having a desire to move certain modifications in the

Bill, he felt that some apology was due from him as one of the committee to the honorable gentleman who had moved for the committee and to the other members who had taken part in the framing of the Bill. The alterations he wished to be made would relate almost entirely to the tenth and eleventh clauses, which had been mentioned as being incongruous with the other provisions of the Bill, and which were regarded as fitted rather for a position in the new Land Bill. He thought it would be advisable for the board to be definitely empowered by the Bill under the consideration of the Council to take claims into consideration for the relief of selectors, and his amendments would provide for that. Without saying more than that he believed the Bill was very much required, and that it was expected by the country, he held that if it became law the chance was that so far from its putting a burden on the people it would take one away which they could not now bear. The selectors in the country were anxious to see some measure passed which should provide in some way for what the title promised, "the uniform and consistent interpretation of the laws and regulations for the alienation of Crown lands and for the relief of selectors." There was no consistent interpretation of the land law for many months together; as nearly all the commissioners differed in their reading of it. He knew of instances of that himself, and he had no doubt they were sufficiently familiar to honorable members. He thoroughly concurred in the principle of the Bill; but he thought that the tenth clause would be improved by being amended to read as follows:—

"It shall be competent for the Central Board notwithstanding anything in '*The Leasing Act of* 1866' '*The Crown Lands Alienation Act of* 1868' and regulations relating thereto to the contrary to take cognisance of and inquire into any application by selectors under the provisions of '*The Leasing Act of* 1866' within any agricultural reserve who shall have failed in fulfilling the conditions of improvement within the time limited by the said Act and to determine a defeat of forfeiture on the part of such selector or selectors so applying for permission to defeat forfeiture by paying to the land agent a sum," &c.

He did not interfere with the remainder of the clause, in the matter of modifying the sum suggested for the fine. In order to make clause eleven consistent with clause ten, he suggested that it should read thus:—

"Any selector who holds land under the provisions of '*The Crown Lands Alienation Act of* 1868' who shall have failed in the fulfilment of either the conditions of residence or improvement required by the provisions of said Act may make application to the Central Board which shall be competent to take cognizance of inquire into and determine on such application for permission to defeat forfeiture;"

and so on, as it had been read by the honorable gentleman who had charge of the Bill. He trusted that the honorable gentleman would see his way to accepting the amendments. Perhaps his accepting them might remove objections to the clauses referred to. He fancied that the Postmaster-General had over-estimated the probable expense of the boards under the Bill.

The Hon. A. H. Brown said he trusted that the Postmaster-General was not out of temper when the honorable gentleman made the comments on the Bill with which the House had been favored by him. The motion for the second reading of the Bill had not been received by the representative of the Government with that courteous demeanor which should characterise an honorable gentleman in his position. The Bill was absurd and would be laughed at, said the honorable gentleman. Well, he (Mr. Brown) was one of the committee on the Bill, and so far as he could judge there was nothing in it to convey the impression which the Postmaster-General implied it would make. In answer to the honorable gentleman's remarks that the Bill was informal and unconstitutional, and in addition to the two Bills cited as precedents, he should remind him of a third Bill, which the honorable gentleman himself introduced this session—the Appeals from Justices Bill. That measure could not be worked without a fee being provided—a fee of 10s. That the honorable gentleman should have brought a measure of that kind forward in the Council and should now object to the Bill before the House, was rather inconsistent. He must have been cognisant at the time that he was proceeding irregularly, or he must now have lost sight of his earlier action. The honorable gentleman had referred to the Restoration for a precedent. The Honorable Mr. Gregory had produced one of much more modern date, which showed the inconsistency, inconvenience, and impolicy of the course relied upon by the Postmaster-General. No privilege would be violated by the Council passing the Bill now under consideration in accordance with the rule laid down by May. No exception had been or could be taken to that rule. He (Mr. Brown) thought that when the Bill was passed and sent to another place, no honorable member of the Assembly nor the honorable gentleman who presided there, when he saw the clauses particularly referred to, could object to them; and the Bill would be accepted. The Bill did not in any way refer to the Parliament;—it contained an express provision that no person who was a member could be appointed to the office created under it. There need be no difficulty on that point; as, if the Bill did not provide specially for that prohibition, there was an Act in force which established it. He should be sorry if the Bill was regarded as a reflection upon the present Government. There was no intention on the part of the committee to give it such a tendency. The Land Bill had been so long promised—the Postmaster-General

said, a month ago, when it was proposed to arrest the Western Railway Bill, so as to pass the two measures concurrently, that the Land Bill would be before the Council immediately—that the Council had felt constrained to take some action. They had heard nothing of the Government Land Bill since; and the Selectors' Relief Bill was hardly yet advanced beyond its first stage. Only at the last sitting of the House, the Postmaster-General led the House to believe that the Appropriation Bill was at our door; but the Council saw nothing of those long promised Bills. But it was not alone that the Council had been thus disappointed and deceived; they could not believe that whenever the Government Bills should come up they would be as satisfactory as they had a right to expect. The Bill now before the House would deal with a large number of selectors; and he thought that without it two-thirds of the whole selectors in the colony would have great difficulty in fulfilling their conditious. The main object of the Bill was to remedy the difficulty, and to remove the task of dealing with it from the hands of the Government to an irresponsible Board. The Government themselves would, he believed, rejoice to be relieved from the very difficult position they were placed in. It was the duty of Government to introduce measures and to endeavor to pass them; but the carrying out of the laws should be delegated to an irresponsible body—irresponsible so far as the Government was concerned. It was the case, under existing laws, that certain officers should carry them out, it not being deemed politic to leave their administration to an individual member of the Government. One important point in regard to the constitution of the Board was that all the proceedings would be in open court, and would be recorded. The Postmaster-General had complained that the Bill took away the duties of the commissioners. The commissioners would be assisted by residents of their districts, with local knowledge to deal with the cases coming before them; and the compliment was paid to the commissioners of being chairman of the local boards. The Minister for Lands would be assisted by the other members of the Central Board. The Postmaster-General rather over-strained the matter when he said the members of the board would meet every day; or, if he did not, then his estimate showed what a large amount of work there was to do. About two days in a month, he (Mr. Brown) estimated, would be sufficient to dispose of all the business arising. At the beginning, perhaps, more time would be required; but not as a rule. The expense would be about £3,000 per annum. He had made a calculation. There were about ten commissioners' courts in the colony: East and West Moreton, Darling Downs, Port Curtis, Wide Bay and Burnett, Kennedy, Burke, Maranoa, and Leichhardt. Four members of each local board would be paid. About £100 a-year would be the cost of each Board. Supposing the salary given to two members of the Central Board was £600 a-year, that would make the whole expenditure about £3,000 a-year. Of course the commissioners had salaries now, and were allowed travelling expenses. There was no likelihood of the expense of the central and local boards being £10,000 a-year. But the expense was a question beside the important benefit which the Bill would confer upon the colony. The Honorable Mr. Gregory had a certain regret that he was obliged to push forward the Bill; but the Postmaster-General had not been able to tell the House when the Government Land Bill would come up to the Council; otherwise the House might have been content with simply affirming the resolutions on which the present Bill was founded; and the honorable gentleman could not tell now. The Postmaster-General should not object to the Bill, because he was the first to suggest that the resolutions were ineffective, and that a Bill should be brought in. The Bill was necessary; because, according to the ruling of a judge, the commissioner had too much power, and was too irresponsible. No man was perfect—not even the honorable gentleman at the head of the Government could claim to be so, and how could any individual rule as satisfactorily as a Board? He pointed to the system of juries, as so efficacious in dealing with facts before courts. The Board would inspire confidence, aiding the experience of the commissioners, and guiding the decisions upon the claims coming before them. The details of the Bill would be best discussed at another time.

The POSTMASTER-GENERAL explained what he before said about there being eight districts, and the paid members of the local boards, who, there was no doubt, would get their guinea a-day.

The Hon. H. G. SIMPSON said he expected to see, and he had not been disappointed in seeing, his honorable friend the Postmaster-General come out again in his usual form, threatening the House with all sorts of pains and penalties if they dared to do anything, or originate any Bill, without reference to another place. Anything that was not introduced by the honorable gentleman himself, or that had not originated in another place, could be passed. There was something in the remarks of the Honorable Mr. Brown: the Postmaster-General, in his opposition to the Bill, had not shown his usual suave and smiling manner that the House were accustomed to; on the contrary, the honorable gentleman had abandoned or forgotten his characteristic deportment. In selecting the Navigation Bill, in regard to which some questions had been asked, as an illustration to his argument to dissuade the Council from exercising their privileges, the Postmaster-General had chosen a very unfortunate subject. What did they do? In deference to

the opinion of the Government, or, rather, according to the decision of the other House —he (Captain Simpson) did not believe the Government would have nothing to do with the Bill, unless it originated in the Assembly —the Council, after having once passed the Bill, allowed it to be brought in a second time, from the Assembly, and passed it almost *verbatim*. His object, and that of other honorable members in passing it, was to get rid of any squabbling or bother in the matter as between the two Houses of Parliament; he did not believe the Council had exceeded their powers in passing that Bill in the first instance. But what was the result of their concession? That shown in the answers given by the Postmaster-General to his (Captain Simpson's) questions. Those answers were about as misleading with reference to the contents of the despatches as they could possibly be, without being untruthful. Honorable members would see that for themselves when the despatches should come before them. When the despatches were on the table, he should take another opportunity of showing what he thought to be the reason of the Navigation Bill not being assented to. It was unfortunate for the honorable gentleman that the Bill had been thrown on one side, under the circumstances stated: the Council had taken no benefit by the course which had been followed; and he should be sorry to see the House accept advice to follow a similar course again. The Honorable Mr. Gregory had read a passage from May, on the position of the House in regard to the practice of Parliament; but he (Captain Simpson) should read from a later edition than that quoted by the honorable gentleman, which went a little further. It would be convenient that he should read from the beginning, because he could hardly run one part into the other:—

"It is sometimes convenient that a Bill, intended to contain provisions of this character——

that was, money clauses—

"should be first introduced into the House of Lords; in which case the Bill is presented and printed, with all the necessary provisions for giving full effect to its object, and is considered and discussed in the House of Lords in that form. But on the third reading, any provisions which infringe upon the privileges of the Commons are struck out, and the Bill having been drawn so as to be intelligible after their omission, is sent to the Commons without them. These provisions, however, are printed by the Commons in red ink, with a note that they 'are proposed to be inserted in committee.' According to the usual rule, they are supposed to be in blank: they form no part of the Bill received formally from the House of Lords, and no privilege is violated: but the Commons are thus put in possession of a Bill containing every provision which will be necessary for giving it full effect; and in committee the words printed in red ink, if approved of, are inserted."

The side note to that passage was—"Expedients to enable Lords to originate Bills." The writer gave a specimen with regard to "Pecuniary fees and penalties," which the Postmaster-General just now took such exception to, and he (Captain Simpson) should read further:—

"So strictly had the right of the Commons been maintained in regard to the imposition of charges upon the people, that they denied to the Lords the power of authorising the taking of fees, and imposing pecuniary penalties, or of varying the mode of sueing for them, or of applying them when recovered; though such provisions were necessary to put effect to the general enactments of a Bill. A too strict enforcement of this rule, in regard to penalties, was found to be attended with unnecessary inconvenience; and in 1831, the Commons judiciously relaxed it; and again, in 1849, they introduced a further amendment of these rules by the adoption of the following Standing Order:—

"'That with respect to any Bill brought to this House from the House of Lords, or returned by the House of Lords to this House, with amendments, whereby any pecuniary penalty, forfeiture, or fee, shall be authorised, imposed, appropriated, regulated, varied, or extinguished, this House will not insist on its ancient and undoubted privileges, in the following cases:—

"'1. When the object of such pecuniary penalty or forfeiture is to secure the execution of the Act or the punishment or prevention of offences;

"'2. Where such fees are imposed in respect to benefit taken, or service rendered under the Act, and in order to the execution of the Act, and are not made payable into the treasury or exchequer, or in aid of the public revenue, and do not form the ground of public accounting by the parties receiving the same, either in respect to deficit or surplus;

"'3. When such Bill shall be a private Bill for a local or personal act.'

"And in conformity with these more recent rules, numerous provisions have been accepted from the Lords which under the former usage of Parliament would have been inadmissible."

Although there was a clause in the Bill which infringed that latter part, yet nothing could be said against it when the Honorable Mr. Gregory put it, as he intended to do, in proper form. If the Postmaster-General was aware of the practice between the two Houses in this colony, he knew that the Standing Orders provided that in all cases not already provided for therein, resort should be had to the practice and usage of the Imperial Parliament. Consequently, there could be no objection to the Bill, provided that the money clauses were left in blank for the Assembly to fill in. In answer to the absurd argument of the honorable gentleman, he (Captain Simpson) might again quote the Judicature Act of 1873, which imposed thousands of pounds upon the country for the increase of the Judges' salaries, and which was passed by the House of Lords before it went to the House of Commons.

The POSTMASTER-GENERAL: That was an exception,

The Hon. H. G. SIMPSON: It was no exception. It was according to the rules and orders of the Imperial Parliament. It was a great absurdity for the Council to give in upon such trifling matters—because it was inconvenient for the Postmaster-General to receive a measure. He should now address himself to the Bill. He had stated his opinion in the protest appended to the report of the committee on the Bill:—

"I disagree with the 10th and 11th clauses, and with part of the preamble and of the title of the draft, because I consider that they deal with a subject foreign to the main principle of the Bill."

Those clauses would, he thought, be more in place as amendments on the Land Bill than a part of the Interpretation Bill; but he was very much afraid that the Council would never see that measure. In that case, which was extremely probable, the clauses had best be embodied in a separate Bill for their own particular purpose. He did not express an opinion upon them; in fact, he had not considered them sufficiently to do so. Although he should vote for the second reading of the Bill, and generally support it, yet, in committee, he would do his best to get those clauses expunged. As to other points with which the Bill dealt, he must say that the Postmaster-General's objection to the local boards superseding the commissioners was of little weight. What did the commissioners now do? They reported to the Minister for Lands, who either acted upon their reports or dismissed them. The main object of the Bill was to get rid of the influence of that pressure from the outside, which was brought to bear upon the Minister of the day—to relieve him from external pressure. It was that which led him (Captain Simpson) in the first instance to support the proposal from the committee. As to the appointing of the Central Board, he did not see that there was any difference between the Governor in Council appointing the members on the recommendation of the Houses of Parliament and on the recommendation of a Minister. If there should be found any practical difficulty, he did not see why the Board should not be appointed at once, so long as they were not removable at the whim of the Government, and, in fact, so long as they were in the position of the Auditor-General. If a partisan of the Government of the day should be appointed, he would not in the long run, as Government changes came about. The Minister for Lands being one of the three members of the board, showed that it was not intended to take all power and responsibility out of the hands of the Government; and it might be put in the Bill that the Minister should be chairman of the board. He did not see at all how the local boards could be so expensive as the Postmaster-General feared. The commissioners were chairmen of the local boards, and it would be left to them to say how often the board should be called together. The other members of the boards could not choose to meet when they were summoned by their chairmen. He knew that the Boards of which he was a member never thought of meeting unless they were called together by the chairman.

The POSTMASTER-GENERAL: The guinea a-day would bring them together.

The Hon. H. G. SIMPSON: If they were called. The commissioners were looked upon as victims now. The Bill would put them in a more independent position. They were now shifted about and disposed of from one end of the colony to the other as the Government thought proper. There was a very recent instance of a commissioner, supposed to be a good man, so shifted, at great expense to himself, and without any reason being given. The Postmaster-General knew the case referred to. As his honorable friend, Mr. Gregory, had suggested that the two last paragraphs of the Bill should be left out, no one could then say that the Bill infringed in the slightest degree the privileges of the other House. It would be best to omit altogether the last sub-section, as it was not necessary.

The POSTMASTER-GENERAL: It was done in the Navigation Bill.

The Hon. H. G. SIMPSON: He knew that. He knew that, with two or three verbal alterations at the most, that Bill had met with approbation; and was recommended to be passed into law. But the Government had shelved it.

The POSTMASTER-GENERAL: The Imperial Government shelved it.

The Hon. H. G. SIMPSON: The honorable gentleman attempted to correct him. It was not the Imperial Government that had shelved it. It was recommended by the Imperial Government to be passed with an alteration or two, and to be returned for the Royal assent. The honorable gentleman was wrong, as he would see when the despatches were laid on the table.

The Hon. W. WILSON said the Parliament had been in session a long time, and the Council were waiting for the long-expected Government Land Bill. The House were very much indebted to the Honorable Mr. Gregory for bringing forward the measure now before them, which enabled honorable members to express their opinions on the subject. He did not think he could support the second reading of the Bill.

The Hon. J. TAYLOR: Oh, no!

The Hon. W. WILSON: The objections of the Postmaster-General could, he durst say, be put on one side by leaving out part of the money clauses. As to the argument that the Bill was unconstitutional, that could be met by amending the second clause by substituting the word "nominated" for "appointed;" so that the appointment of members of the Central Board would be recommended by the Houses of Parliament.

The acceptance or the rejection of the Bill might then be left to another place. The Bill purported to be one "to provide for the uniform and consistent interpretation of the laws and regulations for the alienation of Crown lands and the relief of selectors under the Land Acts of 1866 and 1868." He had expected that something would be found in it to put an interpretation upon the Crown Lands Acts more uniform than the present practice, under which many difficulties arose. Since the Bill was brought forward, he had seen a series of amendments which were to be made in the Land Bill, and which went far in the direction of the interpretation of the land laws; and, so far as the Act of 1868 was concerned, would effect a great deal of good, and do away with many difficulties at present in existence. If that was done, there would be no necessity for the board which the Bill proposed. He did not see that the appointment of the board would take matters much out of the hands of the Secretary for Public Lands, because that Minister must still have the appointment of the commissioners. The original resolution provided that Parliament should appoint the whole board; now, the Bill proposed that the Minister for Lands should be a member of the board. No Government could exist that had not a good working majority in another place; and it was perfectly clear that the Board would be as much in the hands of the Minister as the commissioners' courts were now. He did not see, therefore, that much would be gained by the appointment of the board. Perhaps the working of the Bill would not be so expensive as the Postmaster-General expected; but he (Mr. Wilson) could not help considering what would it be to the unfortunate selector. Besides the salaries of the board, the selectors would be put to expense in coming down to Brisbane to prove their cases —if the board should want to take their evidence *viva voce*; and that was to be considered much more than the cost of the board to the country. The great reason why the issue of titles was stopped was, that some imputation of fraud had been made in preceding cases, years ago; it was not for non-fulfilment of conditions. There had been four or five Ministers for Lands, who had not had courage enough to pass the titles; and it was, he must say, something in favor of the present Government that they had attempted to do something towards the settlement of the difficulties that attended the land question, and especially in regard to what was called dummying. He did not see that the Central Board would have much to do with that, or whether it was intended that they should go into the matter of fraud. The Attorney-General had found that the accusations of fraud were not likely to be supported, and he had attempted to stop the issue of titles by asserting the non-fulfilment of conditions; and now it was asserted that about two-thirds of the selectors' claims to fulfilment of conditions were disputed. Such a statement must, however, be exaggerated, because few claims to titles under the Land Act had come in, and there were two years unexpired before many would be due; so that selectors had yet time to fulfil these conditions before applying for their titles. If they had not fulfilled the conditions of residence, it was a question whether even the board would have power to issue titles, and to allow them to condone their failure by the payment of a large fine. The board were to decide upon the equitable merits of the cases coming before them; but they would be stopped, much as the Minister for Lands had been stopped: he could not issue titles without going against the statute. There would be greater delay and more difficulty in getting titles under the board than there were now. The Act of 1868 was very simple; but it had not been ever before carried out by the commissioner. If honorable members looked at the 117th clause of that Act, they would see that if the Government wished to recover possession from any person contrary to the Act, they were directed to proceed before two justices, who would decide the case summarily. Then, by clause 121, there was an appeal to the District Court, which should be final. It was an extraordinary thing that the Attorney-General had taken his cases into the Supreme Court. Honorable members might remember, that upon those extraordinary trials under the Act of 1868 that had taken place at Toowoomba, the judge stated that he was doubtful whether the case should ever have come before that court. He (Mr. Wilson) did not know whether his Honor alluded to the provisions of the Bill now referred to, but he thought that everything was provided for in the Act. By clause 120, actions were limited to twelve months after the matter complained of had arisen; and by clause 122, they were not removable to the Supreme Court. By clause 128, Crown bailiffs were entitled to enter upon land acquired by fraud or evasion, which became forfeited to the Crown. The clause of the Bill which applied to the Act of 1866 afforded no relief to selectors at all: it prejudiced their case, and took it for granted that they had no claim whatever, and would fine them very severely indeed. With regard to the clause which applied to the selections under the Act of 1868, the fines were proposed to be laid on in a very unnecessary way—cumulative fines for every year in which improvements had not been carried out. No direction was left to the Board; a selector must be punished as heavily for non-compliance with conditions as for wilful neglect to carry out improvements. Something should be done for the relieving of selectors; but it would be preferable for the Government to amend their Land Bill which had been so long promised, than that the present Bill should be passed. The Central Board, if appointed, might be an incubus on the colony; for they were meant to be no

temporary body; and their existence might cause a great deal of delay, expense, doubt, and trouble—more than were caused by the system now in force for dealing with the lands of the country.

The Hon. W. THORNTON said he was not sufficiently versed in the working of the present land laws to arrive at a conclusion upon the working of the Bill. It might be a very good one; but, still, he thought that such a measure should have emanated from the Government, and not from an individual member—it should form a portion of a comprehensive land measure which would take in all Bills before Parliament. It appeared that the local boards would have no power beyond simply taking evidence and sending it to the Central Board, of which the Minister for Lands would, he presumed, be the chairman. The Bill would come into collision with the Land Act of 1868, for there were no repealing clauses in it. He did not know whether that had escaped the attention of the Honorable Mr. Gregory. To pass the Bill would be only adding to the numerous Land Acts already on the statute book and in operation; but he did not think there was the least chance of it becoming law.

The Hon. G. HARRIS: Hear, hear.

The Hon. J. TAYLOR said it appeared to him that, during the time he had been a member of the Council, a Land Bill was the one which above all others caused the dumb to speak and the blind to see! He should support the second reading of the Bill. He was extremely surprised that the leader of the Government party in the Council should have dared for one moment to accuse an honorable member of the Council of having brought forward the Bill now before the House to create billets for place-hunters. He denied that the Bill was brought forward with any intention of that sort. It was disgraceful that the representative of a powerful Government should use such language in the Council, or dare to address it to any honorable member. He was obliged to take the honorable member's denial, that he had not meant that; but he heard the honorable member's words most distinctly. He hoped never again to hear such language from the representative of the Government. He should support the second reading of the Bill, though he could not agree with the first part of clause 4. As it stood, the Bill would never pass. No Government would stand an hour who sanctioned such a provision as that he had referred to; or such a one as clause 7:—

"No deed of grant for land acquired by conditional purchase shall be submitted to the Governor for signature until after the claim for the same shall have been investigated and approved by the Board."

That would take all administrative power out of the hands of the Government. Notwithstanding, he should be very glad to see the clause pass. He supported clauses 10 and 11, though the Honorable Captain Simpson did not support them. There were numbers of persons who would pay a fine to keep their land, and who found it impossible to comply with the conditions. The Act was so loosely worked at first that people thought they would not have to comply with the conditions; but the present Government had come down with a crash, and showed them that things were different. Although he had suffered a good deal from the action of the late Minister for Lands, yet he was glad that the present Government had taken the course that they now pursued. Now, things were going on right. People knew what they had to do. He had no doubt that the prompt action of the Government had stopped all wrong-doing of consequence in regard to the land. The Act of 1868 was now working as well as any Act could work. The Bill would give relief to those selectors who had not complied with the conditions of the Act of 1866 and 1868, through ignorance. He might mention that he heard to-day, from a very high authority indeed, that no certificate granted by Mr. Commissioner Coxen had ever been refused by the Government, or even sent back for revision. About the expense of the working of the Bill, no doubt there would be some; but he maintained that, if the Local Board should sit one day a week, or two days a month, that would be quite sufficient for the business that they would have to dispose of. How often did the commissioner's court sit? Once a month. The expense would be mainly on account of the salaried officers of the Central Board in Brisbane; not much would be incurred by the provincial boards. To say the Bill was introduced by the Honorable Mr. Gregory to place himself and his friends in billets, was not right; and he denied *in toto* such a statement. The Bill was brought forward with a good intention by that honorable gentleman, and he hoped it would pass the second reading by a large majority. He had no doubt as to its fate in another place; but he did not care about that.

The question—That the word proposed to be omitted stand part of the question—was put and affirmed; and, thereupon, the second reading of the Bill was agreed to.

Subsequently, the POSTMASTER-GENERAL asked that the question of the second reading should be again put to the House.

The PRESIDENT ruled that the question had been disposed of.

On the motion, by the Honorable F. T. GREGORY, that the committal of the Bill be an Order of the Day for Wednesday, the 11th of August,

The POSTMASTER-GENERAL called for a division: and,

The House divided.

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ADJOURNMENT.

The POSTMASTER-GENERAL moved the adjournment of the House until three o'clock next day.

The Hon. J. TAYLOR moved, by way of amendment, that the House should adjourn until the 10th of August; and amongst the reasons advanced in favor of the adjournment, he mentioned the only agricultural show of the colony was to be held next week at Toowoomba, and that many honorable members of both Houses of Parliament desired to attend it.

The POSTMASTER-GENERAL, whilst having no objection to the adjournment, he being, he said, as anxious to go to the show as the Honorable Mr. Taylor, pointed out that it was now near the end of the month, and that there was a necessity to get Supply for the public service, or the Government officers would not be paid their salaries for July. Supply would have been voted long ago, but for the obstruction of a small minority in another place; and, in consequence, the Appropriation Bill had not yet come up to the Council.

The Hon. A. H. BROWN said he wished the House could believe the Postmaster-General was sincere in his professions for the interest of the country. There was no probability of business coming up to the Council next week.

The question was put and affirmed, and the Council accordingly adjourned until the 10th instant.