

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 11 AUGUST 1875

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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.*'

Question put and passed.

LAND LAWS INTERPRETATION BILL.

On the Order of the Day being read,
The Hon. F. T. GREGORY moved—

That the House be now put into Committee of the Whole for the consideration of this Bill.

The POSTMASTER-GENERAL said he did not know whether he was in order or not in moving an amendment, but he thought that it was quite unnecessary to proceed with the Bill, and he desired that it be taken into consideration this day six months. He moved—

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

The Hon. F. T. GREGORY said it really seemed a very unusual course that the Postmaster-General had adopted. He was not aware, without the ruling of the President, whether it was competent for the honorable gentleman to make such an amendment at this stage of the Bill. At a former sitting, when there was a larger attendance of honorable members than at present, the honorable gentleman moved a similar motion, which was rejected by a very fair majority of the House; and as no steps had been taken since in regard to the Bill, it seemed that the motion could not be repeated without its being protested against. The Council had already affirmed the necessity of going on with the Bill, and they were now asked to resolve into committee to consider it in detail in pursuance of an order of the House.

The PRESIDENT: The Postmaster-General was not out of order in making the motion which he had made. Of course, it was competent for the House to discuss the Bill, and to deal with it at any stage and at every stage of its progress.

The Hon. H. G. SIMPSON observed that if the Postmaster-General found it necessary to raise the question again, it would have been better for him to have let the House go into committee, and then to move, that the Chairman should leave the chair. Such a course would be more in accordance with Parliamentary practice and the usages of the House, than that which the honorable gentleman had adopted; and, although he (Captain Simpson) was not so fond of referring to "another place" as the honorable gentleman was, yet it would be found by him that it was in accordance with the practice there, to let the Bill get into committee before taking the action proposed against it. The President had ruled that the course taken by the Postmaster-General was in order; no doubt it was, but it was unusual.

The Hon. A. H. BROWN said he was sorry that the Postmaster-General had taken the

LEGISLATIVE COUNCIL.

Wednesday, 11 August, 1875.

Navigation Bill of 1874.—Land Laws Interpretation Bill.

NAVIGATION BILL OF 1874.

The Hon. H. G. SIMPSON, in introducing the motion standing in his name with reference to the Navigation Bill of last session, observed that he need not say anything further about it than what he advanced on a recent occasion, except that honorable gentlemen would see, when they should get the papers into their own hands, that he had reason for making this motion. He made it in consequence of the unsatisfactory answer given to the first of a series of questions which he put to the Postmaster-General last week. That answer was, that—

"Her Majesty had been advised not to give her assent to the Bill."

It was a very indefinite and incorrect answer, in the actual state of the case. He moved—

That an Address be presented to His Excellency the Governor, praying that His Excellency

course he had chosen. The second reading of the Bill had been passed by the House, and thus the principles of the Bill had been affirmed. The honorable gentleman should now allow the committee to discuss the details of the measure. It seemed to him (Mr. Brown) that the course taken by the Postmaster-General was a very informal one, and the most undesirable to introduce into the Council. He hoped that the honorable gentleman would withdraw his amendment.

Question—That the word proposed to be omitted stand part of the question—put, and the House divided :—

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The Honorables T. L. Murray-Prior, H. G. Simpson, A. B. Buchanan, E. I. C. Browne, F. H. Hart, W. D. White, F. T. Gregory, and A. H. Brown.

NOT-CONTENTS, 6.

The Honorables W. Hobbs, D. F. Roberts, W. Thornton, W. Wilson, G. Thorn, W. Yaldwyn.

Original question put and affirmed; and the House went into committee accordingly.

On the motion for the postponement of the preamble,

The POSTMASTER-GENERAL asked the honorable gentleman in charge of the Bill what "doubts have arisen as to the interpretation of the Leasing Act of 1866"?

The time had passed for taking up land under the Act of 1866.

The Hon. F. T. GREGORY: The doubts which had arisen were in connection with those selections which had been acquired under the Act of 1866, and the holders of which had claimed to be brought under the provisions of the Act of 1868. They were so far involved in the more recent Act that it was desirable to cite them in the preamble, by way of explaining that the Bill referred to selectors under the Act of 1866 as well as the Act of 1868.

The POSTMASTER-GENERAL said there was a Bill before the other House, introduced by the Government, which made plain the 51st clause and sub-sections of the Act of 1868.

The Hon. E. I. C. BROWNE: The committee were not now considering the preamble: that would be considered bye-and-by.

The CHAIRMAN directed attention to the Standing Order—

"52. In a Committee of the whole House, the question shall be put on each clause of the Bill separately; leaving the preamble to be last considered."

That showed clearly that the preamble should be postponed. The preamble might be discussed on the third reading of the Bill, and might be altered in accordance with alterations made in the provisions of the Bill.

The POSTMASTER-GENERAL maintained that he was not out of order in discussing the preamble of the Bill. It was, he knew, the practice in another place.

The Hon. F. T. GREGORY rose to order. The honorable member should not speak to

the preamble, but to the question that it be postponed.

The Hon. H. G. SIMPSON took it, that it was for the Chairman to decide whether the preamble could be debated on the question for its postponement. The Postmaster-General had again brought forward "another place," as usual; and upon that alone the Honorable Mr. Gregory was entitled to rise to a point of order.

The POSTMASTER-GENERAL: There was nothing in the Standing Orders to prevent him or any other honorable member from speaking to the preamble on the present motion; and he contended that the practice of Parliament justified him in doing so.

The CHAIRMAN held that there could be no doubt about the postponement of the preamble: it was almost a matter of course. The Postmaster-General had, he thought, overlooked what he had read.

The POSTMASTER-GENERAL: Read it again.

The CHAIRMAN again read the 52nd Standing Order. The reason why the preamble was postponed, was, that sometimes it had to be altered according to amendments made in the Bill; and, he must say that he never knew the question to be discussed in the first instance, on the motion to postpone the preamble.

The Hon. T. L. MURRAY-PRIOR supposed that the Postmaster-General was right, that any honorable member could rise to debate whether the preamble should or should not be postponed. But the best plan for the committee to have followed would have been to have allowed the honorable gentleman to speak without any other honorable member rising to answer him.

Question put and affirmed.

Clause 2—Appointment of Central Board.

The Hon. F. T. GREGORY proposed the omission from the clause of the word, "appointment," with a view to substitute the word, "nominated."

Question—That the word (in the sixth line) proposed to be omitted stand part of the clause—put.

The POSTMASTER-GENERAL said, no Government would consent to the clause, which would take away a power that could not be exercised by any other authority in the State. He did not think, if even the Council passed the Bill, that any honorable member of the Assembly could be found to take charge of it. The Honorable Mr. Gregory must be aware that the clause aimed at destroying the executive authority of the Ministry of the day, and that it ignored the Minister for Lands. Two gentlemen would be appointed, who would be a majority on the Board against the Minister, and they would be absolutely irresponsible. Why should the Council attempt to set themselves up as the Executive? No Government could tolerate that such a measure should become the law of the land. Nothing like it was ever heard of anywhere else. He hoped the honorable gentle-

man would not press the Bill. The Government had brought in an Interpretation Bill, which would make clear the 51st clause and sub-sections of the Crown Lands Act of 1868; and also a Selectors Relief Bill; and both those measures provided for all that could possibly be hoped for by the Honorable Mr. Gregory. He moved—

That the Chairman do now leave the chair and report progress.

The Hon. E. I. C. BROWNE said he should like an explanation of the first proviso of the clause. "Incapacity" of a member of the board should be defined, so that honorable members should know what was meant by the term.

The Hon. H. G. SIMPSON suggested that the committee were dealing with an amendment precedent to the proviso.

The Hon. F. T. GREGORY did not understand what the Postmaster-General meant by taking advantage of the forms of the House on every question connected with the Bill; and he could not see what was the use of his keeping the House waiting to discuss every trivial matter.

The Hon. A. H. BROWN denied that the Bill destroyed Executive authority. The Minister for Lands was one of the Central Board. Authority was taken from the commissioners—powers that were undesirable and that should not be exercised by an individual—and placed in the hands of a Board. How often had the Council been promised the Land Bill and the Selectors' Relief Bill? The promises of the Government had been so repeatedly broken, and there was such uncertainty about the Government Bills ever coming up to the Council, that the House had been led to frame a Bill of their own to meet the wants of the country: the House could place no reliance upon the representations of the Postmaster-General, that the Bills would come before them. As to the honorable gentleman's remark, that no one would be found in another place to take up the Bill now under consideration, he (Mr. Brown) disagreed with the honorable gentleman; he had spoken to many gentlemen, who thought the Bill an admirable one, and if it should go down to the Lower Chamber, it would be supported. The manner in which the land laws were administered now was unsatisfactory. Deeds were issued to some persons, and not to others, and the difference of circumstances did not justify the distinction made by the authorities in the issue of deeds. The Bill would prove eminently satisfactory to the country.

The POSTMASTER-GENERAL remarked that it was not the fault of the Government that their Land Bills had been delayed. If it was not for the obstruction offered in the other House, the Bills would have been before the Council long since. But those measures would be pressed forward now, and they

would be sent up to the Council before the session closed. He had the assurance of his colleagues that the Bills would be advanced without loss of time; and the House could accept that assurance. The objections to the present Bill were not trivial. That of the Honorable E. I. C. Browne, at any rate, could not be so regarded. "Incapacity" might be supposed to mean, if one member of the Board did not suit the others, therefore he must be removed. Under such a Bill, responsible government in the colony would cease. He had no hesitation in saying that the public would never submit to such a measure. The Council would make themselves ridiculous out of doors, and before the world, if they should pass such a Bill. Therefore, he was anxious that the committee should proceed no further with it at present, and that the Honorable Mr. Gregory should be allowed an opportunity of considering the important subject of land legislation.

The Hon. T. L. MURRAY-PRIOR objected that the Postmaster-General mistook the meaning of the clause, which took no authority out of the hands of the Government, and that the honorable gentleman had no business to make such remarks as he had made. It was the duty of the House to make as good laws as they could for the country. If the honorable gentleman wanted to shelve the Bill, his motion at first was right; but he must not go on continually stopping progress.

The Hon. H. G. SIMPSON said the Postmaster-General was right, if it was his policy to get four or five other honorable gentlemen to answer his speeches, and thus to occupy so much time that it would be too late to pass the Bill: the honorable gentleman evidently wanted to waste time. He (Captain Simpson) therefore hoped that no one who was in favor of the Bill would get up to answer the Postmaster-General. The statement that the honorable gentleman had made, that no Government would accept the Bill, showed that the so-called colonial responsible Governments were the greatest despotisms on the face of the earth. In the old unenlightened days, when the colonies had irresponsible government, the law was in accordance with the principle of the Bill before the House: a Board inquired into titles, and the irresponsible Government of those days did not interfere with or go against that Board. The present Government could not be even advised! No; they did as they pleased, during their little day! If, at the end of their little day, there was any chance of retribution for their acts, he could see some reason in the arrangement; but their acts were as irrevocable and unalterable as possible. In the interests of the country, he could see nothing more likely to succeed in giving satisfaction to the greatest number, and to put an end to the existing state of things under the land laws, than a Board to be appointed to act independently of political influence or outside pressure.

The Hon. W. THORNTON held that the Bill was unnecessary, and should never have been introduced by the Council; it should have originated in the other branch of the Parliament. At the same time that he was opposed to the Bill, he was opposed to the Postmaster-General using the forms of the House to delay it. If it was to be passed, let it go through without delay, so that it should be sent down to the Assembly, where it would receive its *quietus*.

The Hon. W. WILSON said, if he thought the Bill would settle the land question, he would give it his heartiest support; but, in his opinion, it would delay and further complicate that question. He regarded the Bill as unconstitutional; and it did not mend the matter that the Houses of Parliament were to "nominate" instead of to "appoint" the Board. If the Governor in Council did not choose to accept their nomination, then the whole thing fell to the ground. As long as the country was under constitutional government, worked by a Ministry selected from the Legislative Council and the House of Assembly, all appointments must rest with the Governor in Council. It would be of little use for the Council to pass the Bill unless it was to be taken up with great spirit in another place. To him, it appeared to be a motion of want of confidence in the Ministry;—

The Hon. F. T. GREGORY: No, no.

The Hon. W. WILSON: And, unless that was supported in the Assembly, it would be of very little avail, indeed. There was a Board of Lands and Works in Victoria, and it was of very little use indeed; the Minister was the head of the Board, and he was the Board;—and the very same thing would be brought about here if the Bill should pass. The Minister for Lands and his friends would be able to put in one member of the Board who would support him, and the member appointed by the Council would not be able to control him. All power, as now, would remain virtually in the hands of the Minister for Lands; and the difficulties, as to forfeiture of land, would be as much in doubt as ever. The two Bills that the Ministry had promised would be calculated to settle the difficulties and doubts of the existing land laws better than the Bill before the House. There were some doubtful points under the Act of 1866 that were not provided for in the Bill; while, under the Act of 1868, the old lessees had yet time, within the next two years, to fulfil their conditions.

The Hon. A. H. BROWN rose to order, and directed attention to the question under consideration.

The CHAIRMAN stated the amendment before the committee.

The Hon. W. WILSON: What he said bore upon the question, and showed that it was not desirable for the Chairman to remain in the chair.

The Hon. E. I. C. BROWNE said he must confess that he did not see how the clause was to be carried out at all. It had evidently not been sufficiently considered: there was no machinery for giving effect to it. If the word "nominated" was put in, how were the House to insist upon the appointment? That was not provided for. Again, supposing that Parliament should not be in session when a nomination or an appointment was to be made, was Parliament to be called together for that particular purpose? Again, was every member of either House to be at liberty to nominate his own candidate for a position on the Board? Had honorable members ever considered that? He had a right, and every other honorable member had a right, to nominate a candidate.

The Hon. F. T. GREGORY: Certainly.

The Hon. E. I. C. BROWNE: Did the honorable gentleman consider that that would be a judicious mode of making those appointments?—that they should be so directly subject to political influence? And, also, did he consider the extreme inconvenience, the extreme delay, of such a course? That honorable members should be sitting night after night fighting over the appointments of members of the Central Board! There was no provision in the Bill for all those requirements, if it should become law. He (Mr. Browne) must say, that if he was the honorable member in charge of the Bill, he should accept the proposition of the Postmaster-General, which would afford him an opportunity to devote further consideration to the Bill. He supposed that leave could be asked for the committee to sit again.

The Hon. F. T. GREGORY said he was glad of an opportunity to reply to two objections that had been urged against the clause. He really thought the Postmaster-General was better acquainted with politics and the history of the colonies, than to assert that there was nothing like the Bill in Australia. It was perfectly well known that a Board of Land and Works existed in Victoria.

The POSTMASTER-GENERAL: Who appointed them?

The Hon. F. T. GREGORY: They were appointed by the members of the Legislature.

The POSTMASTER-GENERAL: The Governor in Council.

The Hon. F. T. GREGORY: Not by the Houses, certainly. But it was, practically, the same thing.

The POSTMASTER-GENERAL: No, no.

The Hon. F. T. GREGORY: As to the objection of the Honorable E. I. C. Browne, there was no practical difficulty in the way of the appointing of a member of the Board than there was in the appointment of the Chairman of Committees. It was in the power of any honorable member to nominate any other for that office; but, generally, the Government of the day made a nomination, and their candidate was appointed by the

House. A great deal had been said before as to the difficulty of getting a suitable person appointed to the Board who should be free from political bias. He (Mr. Gregory) could go thus far, and say, for himself, that if he was called upon to nominate a gentleman for the appointment, he could at once name a candidate who, at the present moment, was fulfilling duties almost identical with those which would be committed to the Board; and the appointment of that gentleman would, as far as he could see, give satisfaction to all branches of the Legislature. Men of all shades of politics, and of every class of the community, spoke of him with perfect confidence. He (Mr. Gregory) should not name that gentleman; but honorable members knew him to be suitable, and that his appointment would satisfy all.

The POSTMASTER-GENERAL protested that he did not want to talk the House out, nor to avail of the forms of the House unnecessarily or improperly; but he had purposely raised the discussion of the whole Bill. Such a measure might answer for a Crown colony, but it was not suited to one possessing responsible government. He was as anxious as anyone to have a proper interpretation of the land laws; and, therefore, he counselled a reconsideration of the Bill by the Honorable Mr. Gregory: who perhaps, would, on another occasion, bring in a clause leaving it to the Governor in Council to make the appointments. There would be little objection to it then.

The Hon. H. G. SIMPSON said he was very glad to have heard that last remark from the Postmaster-General. He maintained that it was not a principle whether the Board were appointed by the Houses of Parliament or by the Government, if only they were secure from removal, as the Auditor-General was—if they were not removable except upon resolution of both Houses of Parliament. That might be the best arrangement, and it might be less difficult to start than the one laid down in the Bill, and it would doubtless work as well. The great object was, that the Board should not be in the hands of the Government of the day.

The Hon. E. I. C. BROWNE considered the suggestion of the Postmaster-General was most desirable. The arrangement laid down in the Bill could never be carried out.

The Hon. W. WILSON, in support of his views, quoted the following passage from Hearn's "Government of England":—

"I may, perhaps, mention another example which shows how constant is the operation of these principles. In Victoria, as in every new country, the administration of the Crown lands and the construction of public works are matters of the most urgent importance. Very soon after the introduction into that colony of Parliamentary Government, an Act of the Parliament of Victoria was passed, the preamble of which set forth that the duties of the offices of Commissioner of Crown Lands and Survey and of Commissioner of Public

Works could be more effectually and economically performed if they were consolidated and placed under one head. With this object the Act proceeded to establish a Board of Land and Works, of which the President was expressly made a political officer, and the other members were made non-political."

That was very much like what was proposed in the Bill:—

"Large powers are given to the Board; and its members are required, before entering upon their duties, to make a solemn declaration that they will faithfully, impartially, and truly execute their office. Subsequently, three vice-presidents, all of them political officers, were added. The result has been that the Board has practically become again divided into separate departments, and that its non-political members form a Board of Advice to the political chiefs of these departments. The president or one of the vice-presidents presides, according as the business relates to Crown Lands or to Public Works or to Roads or Railways; but he does not consider himself bound by the advice he receives, and the other members of the Board feel that they have no power to act in opposition to the wishes of the Minister."

It was further pointed out that, in England, the Board of Admiralty, the Board of Trade, and others, at the heads of whom were Ministers, only existed to "form a House" and to "cheer Ministers." He thought that practically the Board proposed by the Bill would leave things very much as they were now.

The POSTMASTER-GENERAL: It was the same as in the case of the appointment of officers by the President and the Speaker. The opinion of the Library Committee was ignored;—in fact, the committee were powerless. All appointments were really made by the Governor in Council. The Board would be like the committees, at the beck of the Minister of the day. He referred to the existence of the commissioners' courts in the several districts of the colony, which provided for what was contemplated in a great part by the Bill.

The Hon. A. B. BUCHANAN pointed out another difficulty. A member of the Board might come under the Insolvency law, or under the Criminal law. Unless the Parliament was in session, he could not be removed. That was an oversight in the Bill, he thought, and on that account, it might be necessary to postpone the clause.

The Hon. F. T. GREGORY: Perhaps the honorable gentleman was not aware that the Governor in Council had power to suspend any officer in the colony, even the judges. That was enough. But as he (Mr. Gregory) felt that there were several honorable gentlemen, otherwise anxious to support the Bill, who took exception to the construction of the clause, he was quite willing to postpone the consideration of the measure until this day week. In the meantime, there would be an opportunity afforded to them to consider its amendment, or any alteration that would bring

it more into accordance with their views than it was now.

The POSTMASTER-GENERAL: The Government could not suspend a judge of the Supreme Court. It would be the most dangerous power to place in the hands of the Ministry. Nor could they suspend the Auditor-General. The Government could suspend the District Court judges. He had no objection to withdraw his amendment, to enable the honorable member to make a motion to obtain leave for the committee to sit on a future day.

Amendment, by leave, withdrawn; and thereafter, on the motion of the Honorable F. T. GREGORY, the Chairman left the chair and reported progress.

Leave was given by the House for the committee to sit again on Wednesday next.