Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 11 OCTOBER 1876

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LEGISLATIVE COUNCIL.

Wednesday, 11 *October*, 1876.

Resumption of Lands.—Assent to Bill.—Assent to Bill Reserved.—Management of the Railway Department.—Trigonometrical Survey of the Colony.—The Contingent Account of the Council.—Oaths Bill.—Real Property Bill.

RESUMPTION OF LANDS.

The POSTMASTER-GENERAL moved—

That this House be put into committee for the consideration of the Message No. 2, received from the Legislative Assembly, on the 21st September.

Question put and passed.

The House being in Committee of the Whole,

The following Message was laid before it :—

"MR. PRESIDENT,

"The Legislative Assembly having this day agreed to the following Resolution, viz. :—'That, in order to enable the Government to deal with the lands in the Western Railway Reserve, and in pursuance of section 10 of '*The Crown Lands Alienation Act of* 1868,' this House resolves to resume from the leases of the undermentioned runs in the Settled District of Darling Downs the areas hereinunder specified, as described in the schedule laid on the table of this House of the lands proposed to be resumed from the runs in the said Railway Reserve.

"'SETTLED DISTRICT OF DARLING DOWNS.

"'(*Within the Western Railway Reserve.*)

"'About 20,000 acres to be resumed from St. Ruth's Run.

"'About 92,000 acres to be resumed from Jimbour Run, as per descriptions marked A and B.

"'About 10,560 acres to be resumed from Warra Warra Run.

"'About 29,400 acres to be resumed from Cecil Plains Runs.'

"Beg now to present the same to the Legislative Council for their concurrence.

"H. E. KING,
"Speaker.

"Legislative Assembly Chamber,
"Brisbane, 20th September, 1876."

The POSTMASTER-GENERAL said the resumptions proposed by the resolution of the Legislative Assembly, now before the committee, could not, he thought, be viewed in the same light as ordinary resumptions. The committee was aware that the message had been referred, in accordance with a Standing Order, to a Select Committee, to inquire into "the policy and justice" of the proposed resumptions, and that that committee had reported that the resumptions were rendered necessary for the purpose of placing the runs to be affected in the settled district named in the same position precisely as other runs in the unsettled districts which were within the Western Railway Reserve, which reserve was created by an Act of Parliament now on the Statute Book. The policy of the question had been determined by the Western Railway Act: and it would be scarcely competent for the committee to interfere with it now. At the same time, it would be unfair not to assent to the resumptions, because thereby holders of runs in the railway reserve who happened to be in the settled district would be placed in a different position from those who were in the unsettled districts. He moved—

That the resolution of the Legislative Assembly be agreed to.

The Hon. F. T. GREGORY said, as a member of the Select Committee who had brought up the report upon the resolution now on the table, he, of course, concurred in it. But since the report had been presented to the House, his attention had been drawn to an omission in regard to what appeared to be a very reasonable claim on the part of those lessees in the settled district who were now brought under the provisions of the Railway Reserves Act. The omission was in regard to their right to compensation for the value of their improvements on the land resumed. Under the Homestead Areas Act, there was an express provision for compensating lessees for their improvements on land resumed and taken from them by the Government. By virtue of that, it appeared to him but reasonable that lessees brought under the Railway Reserves Act should be placed in a similar position. He could not see why, merely because of the requirement to provide funds for the construction of a railway, the lessees affected should be placed in a worse position than they would have been in if their land had been resumed under another Act, especially as their runs were taken before the termination of their ten years' leases. He was not quite sure at what particular period the consideration of the matter should be entertained. Possibly the lessees themselves might have submitted to the committee, knowing that such a committee had been appointed, the reasonable grounds for making their claims; but such was not done; and he now wished to have the matter fairly considered, either by amending the resolution—

to affirm that the claim was just and reasonable—or in some other way that the committee might approve, so long as the object in view was attained. He thought it was competent for the committee, now, in dealing with the resolution, to affirm that the claim was right or not;—he was somewhat in doubt, however; but it might be added as an amendment, possibly, if any honorable gentleman who was interested in the matter would put it in some definite form, and he should be glad to support it. He had risen merely to call attention to the matter for consideration at the hands of honorable members.

The POSTMASTER-GENERAL: He would point out to the committee that the resumptions proposed to be made now were resumptions in the ordinary way under the Act of 1868. The runs were to be resumed by resolution to that effect of both Houses of Parliament. The resumption was for a specific purpose certainly, so as to make the land available under the Western Railway Act. But that did not affect any privilege of the lessees under the Homestead Areas Act of 1872. If the lessees had effected any improvements on the land proposed to be resumed, they were entitled to compensation for those improvements under the 14th section of the Homestead Areas Act. The resumption would be the same as if it had been made totally regardless of the Western Railway Act. What rights the lessees would have under any other circumstances they would have under present circumstances. All that the committee was now asked to do was to concur in the resolution of the Legislative Assembly, which had been passed in pursuance of the Crown Lands Alienation Act of 1868, to resume certain portions or the whole of certain runs as described in the resolution. Whatever rights the lessees had under ordinary circumstances they would have now. The resolution did not interfere with them in any way. The 14th section of the Homestead Areas Act entitled the lessee of a run from which any land had been resumed to compensation for improvements erected on the land; and if on the land now proposed to be resumed any improvements had been made, they would come within the terms of the 14th section of the Homestead Areas Act. Compensation must be given; so that really if the committee affirmed it, as suggested by the Honorable Mr. Gregory, it would be affirming only that the law should be carried out, which would be done under any circumstances.

The Hon. J. F. MCDOUGALL referred to the repeal of the Homestead Act of 1872 and of the Alienation Act of 1868 by the Alienation Bill now before the House; but said if the law was as laid down by the Postmaster-General, there was no necessity for going further in the matter, with the honorable gentleman's assurance. Otherwise———

The POSTMASTER-GENERAL: No existing right whatever of the lessees for compensation would be affected by the House adopting the resolution. The resumptions would take effect immediately after the House concurred in the resolution of the Assembly, and the rights of the lessees of the runs resumed would come into operation immediately after. The Bill that the Honorable Mr. McDougall referred to was not yet under discussion for the second reading. But, if it was in force, the rights that had accrued under one of the repealed Acts would not be affected. The provisions of the fourteenth section of the Homestead Areas Act were very clear with regard to compensation for improvements.

The Hon. A. H. BROWN observed that his honorable friend, Mr. Gregory, merely wished to come to an understanding that the same justice would be meted out to the lessees of the settled district within the Western Railway Reserve as was extended to other Crown tenants whose lands were resumed. It had been pointed out to himself and the honorable gentleman by one of the lessees, that the thing should be ventilated. He was glad to find, from the information given by the Postmaster-General, that it would be as they wished.

The Hon. F. T. GREGORY said, after the explanation of the Postmaster-General, he should pursue the subject no further.

The question was put and passed.

On the resumption of the House, the Chairman reported that the resolution had been agreed to without amendment; and a message was ordered to be transmitted to the Legislative Assembly, informing the House of the concurrence of the Council in the resolution.

ASSENT TO BILL.

A message from the Governor was received, informing the House that His Excellency had assented to

The Judicature Act of 1876.

ASSENT TO BILL RESERVED.

A message from the Governor was received, informing the House, with reference to the Gold Fields Bill, affecting Asiatic and African aliens, that His Excellency, believing himself to be acting in conformity with the Royal Instructions, had reserved "the said Bill for the signification of Her Majesty's pleasure thereon."

MANAGEMENT OF THE RAILWAY DEPARTMENT.

The Hon. G. SANDEMAN moved—

That, with a view to the efficient management of the Railway Department, it is desirable that the office of the Commissioner for Railways should be separated from that of Under Secretary for Works; and that a Commissioner of Railways should be appointed, whose sole duty it should be, as the executive head, to take the management of the Railway Department.

He said he would ask the permission of the House to amend his motion, by the addition of the following :—

That the foregoing resolution be forwarded to the Legislative Assembly for their concurrence.

He presumed that this was the proper time to make his request. He had placed the motion on the paper in connection with the debate which took place last week on the subject of it. The Postmaster-General, he had been gratified to find, agreed with the principle involved in the motion; but he (Mr. Sandeman) thought that the honorable gentleman had not been sufficiently definite as to the time when the change should take place. It was agreed by honorable gentlemen who took an interest in and had spoken on the subject, that it was very desirable that the change should take place immediately; and, with the view of endeavoring to impress upon the Government the importance of immediate action, he took the present proceeding. He observed that action had been taken in another place; and he thought it was a gratifying coincidence, though an unusual one, that action had been taken simultaneously in both Houses of Parliament on the same subject. It only tended to show how much interest was felt in the subject, and proved that it was a very important one, which ought to receive the attention of the Government as soon as possible. After the debate which took place last week, he thought it was unnecessary to occupy the time of the House by saying much more upon the subject now. The time had arrived when such measures should be taken as he proposed; he would go further, and say that the necessity for action had arisen a considerable time past. He was very much pleased that when the subject was first ventilated, so many honorable members appeared to approve of his proposal. He might mention, in conclusion, that if effect were given to the proposal, the Government would be simply following the precedents of the other colonies, which had found it desirable, on the increase of traffic taking place in their railway departments, to institute a mode of management that provided greater efficiency than they originally could secure, and than Queensland had heretofore in the conduct of that branch of the public service. He left the motion in the hands of the Council.

The Hon. F. T. Gregory said, although on the former occasion he very fully concurred with the mover of the resolution in many points as to the management of the railways of the colony, yet he must say that, upon reflection, it appeared to him that without some little further knowledge of the subject the House would, by agreeing to the resolution, be affirming a principle upon almost insufficient data, if not absolutely upon insufficient data. He might claim to have some little knowledge of the working of the different departments of the public service in this colony, as well as elsewhere; and from what was within his own absolute observation, he could state—what would apply in very many instances, and this would be one of the number, in all likelihood—that the passing of the resolution would only tend to materially increase the amount of departmental work, or, in other words, increase the quantity of red tape. The present Commissioner for Railways was the Under Secretary for Public Works, and, in his capacity as Under Secretary, he transacted a large amount of business in connection with the Railway Department directly, as emanating from himself—of course, under the direction of his political head—without the necessity of carrying on a separate correspondence. Was the amount of correspondence to be conducted between the two departments, or for the separate department of Railways, so great as to really occupy the whole time of one officer? He would have to be, of course, a man of superior attainments, a high-class officer. No doubt, it would be a very great advantage. But the additional cost, in salaries, of the employment of a chief and the various subordinate officers of his staff, would be considerable; and he (Mr. Gregory) feared that it would only be augmenting the expenses of management without any corresponding benefit to the country. He was inclined to move as an amendment, that the subject be referred to a Select Committee, because on investigation he thought that his statement would be fully borne out. He was not so strongly opposed to the motion that he would wish to do more than that, because it had been introduced with evident good intentions, to increase the efficiency of the working of the Railway Department; but he feared that if it was given effect to, it would fail to accomplish anything more than was done at present. If the honorable gentleman would amend his motion to the effect that the subject should be referred to a Select Committee, he (Mr. Gregory) would support it gladly; but he could hardly support it in its present form.

The Hon. J. F. McDougall was sorry that he could not agree with his honorable friend, Mr. Gregory, in the opinion just expressed by him, because he was satisfied that the duties of the two offices were incompatible, to a certain extent; that was to say, the duties, as regarded correspondence, of the Commissioner for Railways and of the Under Secretary for Public Works could, he believed with his honorable friend, be very well conducted by one head; but, other and more important duties, so far as the public was concerned, could not be efficiently conducted by one head. The colony was on the eve of entering upon large railway extensions, and it was very necessary that the Commissioner for Railways should be almost constantly on the lines, that he should travel very frequently along the railways in opera-

tion; and, he asserted, that could not be the case if the person who was Commissioner must be present in his office as Under Secretary for Public Works, as in the frequent absence of the responsible Minister at the head of that department, his presence was necessary to decide very important questions that could not be delayed if regard was had to the efficiency of the administration. The time had fairly arrived when a separate Commissioner for Railways should be appointed, and therefore he had great pleasure in seconding the motion.

The Hon. A. H. BROWN thought that his honorable friend, Mr. Gregory, had hardly made out his case why the resolutions should not be carried; but, still, as his opinion was that such evidence had not been produced to satisfy him that the offices under notice should be divided, he should be very glad to support him in the appointment of a Select Committee. There was great difficulty in the offices being continued as they were now. It was very necessary that the Under Secretary for Public Works should be in Brisbane. Honorable members all knew that there was a Great Northern Railway, that another main trunk line also was extending far to the westward, and that other great extensions were contemplated. The Commissioner for Railways could not sever himself from his other office in the way that the requirements of the Railway Department demanded; and it was with the view to meet its requirements that a special executive head was necessary for it. He (Mr. Brown) should be inclined to concur with Mr. Sandeman, that the time had arrived when such a necessary officer should be appointed. He could quite conceive that there were abuses existing under the present system which would be redressed if there was an officer strictly charged to look after the Railway Department. All knew well that things were properly conducted when they were regularly looked after by the masters. There were rumors of bad management, and the grounds for them ought to be removed. Parliament had sat a long time, but, perhaps, would sit for a sufficient period to allow of an inquiry into the subject. However, the officer was required, and indeed he was necessary, so that investigations into the cause of mismanagement could be properly conducted. At present, the commissioner could not leave his office for such a purpose. The House should recognise the resolution.

The Hon. W. THORNTON, who was almost inaudible, was understood to say that he was very much of the same opinion on the subject of the resolutions as his honorable friend Mr. Gregory. He did not think there was a person in a better position than that honorable gentleman to form an opinion upon such a subject; and he had not heard anything yet to lead him to believe that the present arrangement of the Under Secretary for Public Works holding the position of Commissioner for Railways had resulted in any way injuriously. On the contrary, it appeared to him that the working of the Railway Department was conducted satisfactorily, though perhaps not, to a certain extent, as affecting some subordinate officers. It must be borne in mind that the creation of a separate office, such as Commissioner for Railways, often involved a separate staff and a multiplication of officers that under the present organisation were not found necessary; and he thought a change at present would be only adding to the expenses of the service and the country. It was all very well to say that railway extensions were contemplated — they were dreamt of, they were not carried out yet to any extent; and he thought it would be time enough for a Commissioner for Railways and a separate staff to be appointed when those railway extensions had been commenced. He questioned very much if some of them would ever go beyond being talked of! There was a moderate extent of railways in the colony, controlled very efficiently by the present commissioner. He (Mr. Thornton) protested against the unnecessary increase of public officers. There was not, he supposed, another colony in the British empire having so many Government employees as Queensland. It was quite demoralising to the country. If there were fewer officers there would be better service; and he thought it was most advisable not to increase the numbers more than was absolutely necessary.

The POSTMASTER-GENERAL was understood to say that there appeared to be considerable misapprehension somewhere. However, the remarks of the Honorable Mr. Gregory exactly met the case in point; and he thought that before the House took any decided action on the motion submitted by the Honorable Mr. Sandeman, or allowed itself to be committed to an affirmative opinion thereon, it should have some better information than was now before it. The first resolution, on the face of it, was impliedly a vote of censure upon the gentleman who held the office of Commissioner for Railways.

HONORABLE MEMBERS: No, no.

The POSTMASTER-GENERAL: He said impliedly:—

> "That, with a view to the efficient management of the Railway Department, it is desirable that the office of the Commissioner for Railways should be separated"——

and so on; and that another officer should be appointed. The implication from that was, that the present commissioner was inefficient. Why make a change, otherwise? The change was proposed, "with a view to the efficient management" of the department. Now, as far as he (the Postmaster-General) could learn, and as far as his observation had extended, it appeared to him that the gentleman who at present occupied the position of Commissioner for Railways had performed his duty faithfully and efficiently. It was true that the work of the Railway Department

was increasing, and that it might be a matter for consideration whether some other arrangement might not be made by which the supervision of that department should be taken out of that gentleman's hands; but, before the House decidedly affirmed that the time had actually arrived for such a change, there should be some conclusive evidence placed before honorable members. The necessity for the creation of a new department which would involve the appointment of other subordinate officers and an increase of the staff, which he could scarcely say, in the present position of things, was warranted, should be established upon good and sufficient grounds. Therefore, he should be glad to learn that the honorable gentleman would withdraw his motion for the present, with the view of putting it into a more generally acceptable form, or with the view of procuring evidence to establish the position he had taken up.

The Hon. G. SANDEMAN, in reply, had only to say that he had not made any reflection upon the gentleman who held the position of Commissioner for Railways; that he neither intended it nor implied it. He considered it his duty to put the motion before the House upon broad grounds, with the view of more effectively carrying out the public service. He had had a good deal of experience of travelling on the railways, and he had seen a great many defects in the organization of the service; and those defects were commented upon in the debate which took place last week. What he stated then he adhered to now: he did not think that the great amount of work the Under Secretary for Works had to attend to, however good an officer he might be, allowed him to devote his time to the duties of his other office of Commissioner for Railways, an office that in the other colonies was held by persons who devoted their whole time and attention to it. Now that the country was entering upon a very large increase of railway works, he (Mr. Sandeman) thought the time had arrived, most certainly, when the services of an officer who should devote his whole time and attention to the important subject were absolutely required. He could say that there were many complaints outside as to the department. Honorable members who did not live in the interior or travel often by railway did not hear much about it; but he heard a great deal. He made no reflection upon any officer in the Railway Department; but he said that the amount of work that was going on in connection with railways in the colony necessitated a greater amount of attention and supervision than had ever yet been carried out. Under the circumstances, therefore, he thought it his duty to the public to table his resolutions. He understood it was the intention of the Government, through the Postmaster-General, who had stated that it was the intention of the Government, to separate the office of Under Secretary for Public Works from that of the Commissioner for Railways and to make the latter a distinct department; and he was exceedingly gratified to hear it, as other honorable gentlemen were. As he before said, his only reason for bringing forward the motion was, that the answer of the Postmaster-General was too indefinite as to when the change was to take place, and he (Mr. Sandeman) wished it to take place at once. In other respects, he thought they were all agreed. For his own part, he was quite willing to agree to the proposal made by the Honorable Mr. Gregory, if there was any doubt upon the question. By all means, let a Select Committee be moved for, if it was the pleasure of the House to have an inquiry; but he would rather leave that step to some other honorable member to propose. He was so perfectly convinced of the necessity of what he proposed himself, that he would rather see his motion carried as it was.

The POSTMASTER-GENERAL, in personal explanation, said the Honorable Mr. Sandeman was under a misapprehension, that he had stated positively that the Government intended to make the alteration proposed in the offices. He had spoken for himself, that he was of opinion that, for some time past, certain inconveniences were attached to the two offices being held by one gentleman; and that he had no doubt that, ere long, the matter would be taken into serious consideration by the Government, and that steps would be taken to separate the offices.

The Hon. G. SANDEMAN and the Hon. A. H. BROWN: Hear, hear.

The Hon. J. TAYLOR trusted that the motion would be carried. He had himself put in an application for the billet of Commissioner for Railways, and he was quite certain that the Government would support him. But he could not see exactly why the present commissioner could not do the work. It was nothing whatever. It was not done in first-class style; but there was very little to do, really. The Honorable Mr. Sandeman said it was necessary to separate the offices to carry on the work of the colony, and to have an independent Commissioner for Railways, apart from the Under Secretary for Works. Now he (Mr. Taylor) denied that altogether. There was no occasion whatever for the change. If made, it would create a separate staff; it would entail a cost of, he supposed, £10,000 a-year more on the colony. The railways were going on very well indeed, and he could not, for the life of him, see why the present arrangement should be altered.

The Hon. H. G. SIMPSON referred to the term "executive head" in the motion, and expressed his doubts whether it might not be interpreted to mean "another Minister of the Crown." It was only a question as to the reading of the resolution; and he submitted to the House the propriety of making the phraseology clear.

The Hon. G. SANDEMAN, in explanation, said he had no such intention as might be suggested by the remark of the honorable and gallant member, Captain Simpson. If a better term could be chosen, he was quite willing to adopt it. He only meant by executive head, that the Commissioner for Railways should be a separate officer who should devote his whole time and attention to the Railway Department.

The Hon. E. I. C. BROWNE confessed to sharing the doubts expressed by the Honorable Captain Simpson, and he suggested the leaving out of the words, so that the resolution should run, that a Commissioner for Railways should be appointed whose sole duty it should be to take the management of the Railway Department.

The Hon. G. SANDEMAN said he was quite willing that it should be so.

Amendment made accordingly.

The Hon. F. T. GREGORY rose to move, if not out of order, that the consideration of the resolution should be referred to a Select Committee.

The PRESIDENT said the honorable member had already addressed the House.

The Hon. W. F. LAMBERT moved a substantive amendment on the second resolution, to the effect that the question embodied in the first resolution be referred to a Select Committee for inquiry and report thereon.

Some time was occupied in arranging the combination of the motions; but, eventually,

The Hon. G. SANDEMAN said that, having consulted with other honorable members, he thought to refer the question to a Select Committee would be to shelve it altogether.

HONORABLE MEMBERS: Hear, hear.

The Hon. G. SANDEMAN: Therefore he should let the question go to the Council upon its merits, and abide by the result.

The Hon. H. G. SIMPSON said he perfectly agreed with the honorable gentleman, that at this period of the session it would be shelving the question entirely to refer it to a committee, as whatever action the committee might take, it would have no effect beyond the immediate decision of the House. The House had best deal with the question at once. There was a possibility, if they decided at once on the resolution, and sent it down to the Assembly, that it would be agreed to there; but there was none if they delayed by referring it to a Select Committee. At an earlier period of the session it might be the most desirable course to refer the subject to a select committee.

The Hon. W. F. LAMBERT, by leave, withdrew the motion for reference to a Select Committee.

The question was then put, in its amended form, and agreed to.

TRIGONOMETRICAL SURVEY OF THE COLONY.

The Hon. A. H. BROWN moved—

1. That, with a view of obtaining a most valuable, desirable, and reliable record in connection with the lands of this colony, and of facilitating, guiding, and recording the transfer of real estate, this House is of opinion that the time has arrived when steps should be at once taken to inaugurate a system of trigonometrical survey of the colony.

2. That such resolution be forwarded to the Legislative Assembly for their concurrence.

He said, it had been his opinion, for some time past, that a trigonometrical survey of the colony should be entered upon. It was forced upon his notice more than ever during his researches recently as a member of the Select Committee on the Real Property Transfer Bill; for it became manifest to him what great importance was to be attached to the tracings of drafts placed upon the title-deeds of land registered in the Real Property Office. Now, it must be patent to every person who knew anything about surveying, that the tracings were an important kind of description of landed estate, and that, as they were registered as part of the title-deeds of property, great care to ensure their absolute accuracy was desirable and necessary. He believed that as far as the present system in operation in the colony would admit, the surveys were carried out with care, still, without that perfection which was ensured by the system which had been adopted in Europe and in England, and, with very great perfection, in Ireland. He thought that no perfectly reliable record could be established under any other system than that last named. It might be said that to introduce the system in this country would be a very expensive process. No doubt it would be; but the country would get a more valuable return for its expenditure than at present, and would be enabled to possess a reliable record, as he had attempted to describe it, of real estate. It was almost impossible for surveyors, now, in the ordinary course of their field work, to feel any degree of confidence in their lines of departure and points of arrival. He meant to say, it was very difficult for them to tie their work together and feel that they were giving to the country a reliable matter in their plans of surveys. The system adopted with regard to the highways of the colony would almost suggest what he meant, and show the confusion that was likely to arise in the future. Instead of making the roads precede the surveys of allotments of land for sale or selection, the latter were surveyed first, and the roads subsequently. He knew of many instances where the country had been put to considerable expense in consequence of that mode of not beginning at the right end and laying down roads in suitable positions—that was, taking the spurs of ranges, where

drainage was perfect, and where roads were likely to remain in condition a long time;—and, in many instances, he knew of roads being diverged from their proper line and turned round corners of fences, because the land had been alienated before they were laid down. He mentioned that simply as an illustration of what he attempted to impress upon the House. The result of the existing state of things, he believed, would hereafter be that many titles would prove defective, for want of a proper survey. There could be no doubt that the present system of conveying and holding real estate was a very great improvement upon the old system—that was generally admitted; and the circumstance of its general use in the Australian colonies—and in Ireland, too, he believed—showed that its adoption was a step in the right direction. To make it perfect, he thought the colony should be properly surveyed; and, as far as he could judge, nothing but a proper triangular survey as a basis would ensure that. To show the perfection of the survey of the land and the importance attached to it, he would read an extract from a speech of a late Governor of South Australia, Sir Richard MacDonnell, K.C.B., who spoke highly of the Ordnance Survey of Ireland. That survey was upon the trigonometrical principle—the same which he (Mr. Brown) proposed to get introduced into Queensland. The occasion of the speech was a meeting to promote the introduction of Torrens' system of registration of land titles into Ireland; and it was the speech which drew his (Mr. Brown's) attention to the importance of a trigonometrical survey as the basis of the system. Sir Richard said:—

"He would now ask them to consider for a moment the great advantage possessed by Ireland in the Ordnance Survey of the country. No system of registration of titles could work, in his opinion, unless each certificate of title could refer, for the extent and position of every parcel of land named therein, to the conclusive evidence of some impartial and complete public map. Now, in Australia, there was occasionally great difficulty in dealing with property on account of the absence of ancient land-marks, and the original defects of the first surveys. The difficulty of fixing the boundaries of lands, which was the weak point in Australia, was the strong point in Ireland (hear, hear). The Ordnance Survey of Ireland, the six-inch map, was admittedly one of the finest of topographical surveys; and, when the 25-inch survey was completed, Ireland would have one of the most perfect references"—

references!—

that ever existed in any part of the world (hear, hear). So wonderful indeed were the mere mechanical means adopted for ensuring accuracy, where actual measurement was employed, that when 500 feet of one of the measured bases—viz., that near Lough Foyle, in the North of Ireland—were remeasured in presence of Sir John Herschel and Mr. Babbage, it was necessary to use a microscope to detect any difference between the original and the new measurement, whilst the error, if any, was less than the third of the finest dot which could be made with the point of a needle."

It seemed rather fine.

"He might also remind them that, when calculations were worked out through all the intervening triangles between the measured base on Lough Foyle and that in England on Salisbury Plain—a distance exceeding 400 miles,—the length of the latter base, as computed by those calculations, scarcely differed four inches and a-half from its length as found by actual measurement on the ground."

Now, that explained to honorable gentlemen, he (Mr. Brown) thought, the description of survey and map that he proposed should be introduced or initiated in this colony; and he thought they would agree with him when they considered how much wealth was bound up in it, and that the title of real estate might be ultimately called in question from the need of the evidence that such an undertaking would ensure by the possession of such a map and documents as could be absolutely relied on. The introduction of such a system of survey was imperatively requisite; and though the cost might be considerable, yet it would be fully compensated for by the security which all holders of property would enjoy in their estates. It would take, of course, many years to perfect the system; and it was in the future that its great value would be most experienced and acknowledged. It might take a year or so to initiate the survey; but, therefore, he thought no time should be lost. The system had been spoken of with great encouragement in New South Wales and in other colonies, indeed, as of the very highest value. In consideration of its great importance, he should like the subject to be referred to a Select Committee, in order that the House might have the testimony of persons more efficient than he was. He proposed to call the Surveyor-General and other gentlemen who could give the House very valuable information; and to obtain the evidence of others who had been accustomed to work of the description contemplated—persons who were highly educated, and whose testimony, he had no doubt, would be valued. The honorable member submitted a motion for a Select Committee to take the one he moved at the outset into consideration, and he named the committee.

The PRESIDENT said he did not understand the honorable gentleman. Did he mean to substitute the motion for a Select Committee for his original motion, which he had moved pursuant to notice?

After some time occupied by honorable members in deliberation, the motion was, by consent, altered by the omission of the words "at once." Thereupon,

The POSTMASTER-GENERAL said, the question raised by the Honorable Mr. Brown was one that the House should not hurriedly

come to a decision upon; and it was one of such importance that he thought it desirable to have it investigated at as early a date as possible by a Select Committee, as the honorable member himself, upon after reflection, seemed to wish. There were other honorable members competent to deal with the question in such a way; and he therefore proposed—

That all the words after "That," in the second resolution, be omitted, with a view of inserting the words "the question raised in the first resolution be referred to a Select Committee, with power to send for persons and papers, and to sit during any adjournment of the House;—such committee to consist of the Honorable A. H. Brown, the Honorable F. T. Gregory, the Honorable H. G. Simpson, and the Mover."

The Hon. F. T. GREGORY said he could fully endorse the importance of the movement now proposed to be started by the Honorable Mr. Brown, and he maintained that for some years past it had been of growing consequence to the colony. The accumulation of errors was, he might safely say, something far beyond what the ordinary public was at all aware of, resulting from the inaccuracies of the surveys in this colony, having originated in a legacy handed over from New South Wales, which errors, notwithstanding the most strenuous efforts of the officer who had had the direction of the surveys in Queensland, could not be prevented from accumulating to a very great extent. The resolution, if carried, was one that would, no doubt, tend to remove a great many existing faults, and would prevent errors increasing to any magnitude in future. There was no doubt that the immediate effect of a trigonometrical survey would hardly lead to very much, so far as regarded assistance in the system of transfer of real property; but it would be ultimately very important in connection therewith, and the gain from the inauguration of such a survey would be a large item, indeed. He should be very glad himself if the resolution should meet with the support of honorable members, and he certainly hoped that it would be carried elsewhere. It should be part and parcel of the resolution that the survey should not be confined simply to certain trigonometrical points; which, however satisfactory in a scientific point of view —and which would be absolutely necessary for the correction of the present surveys of the colony—would not be immediately so useful as what was more required, the establishment of two or three main base lines in the colony on the true meridian, upon the lines of latitude and longitude. Those base lines would be immediately available for the correction of errors if the work was undertaken in those districts longest located and most thickly populated—Darling Downs and the Moretons—where errors had accumulated during past years, in consequence of the inferior means at the disposal of the Government to carry out the surveys, and from the necessity of a number of surveyors being employed who had very low-class qualifications; which errors in the original surveys had descended as an inheritance to the young colony of Queensland. Again, errors were inevitable from the original surveys of New South Wales having been started upon the magnetic meridian. Most honorable members were aware that the magnetic meridians were altering very rapidly. At the present time, from observations taken by himself, he conceived the magnetic meridian to be altering at the rate of one minute per annum, reducing the variation to something like seven and a-half degrees east. As this diminished, honorable gentlemen could conceive how far in thirty or forty years the surveys would get into inextricable confusion. But, by introducing meridional lines, carefully measured, at the same time, as bases, and in connection with the trigonometrical points; and the survey being carried out along with that of New South Wales; a very valuable work would be initiated for this colony, which would eventually save a great deal more than any present cost that the Government might be called on to incur on its account. The amendment proposed by the Postmaster-General, he felt inclined to support, as, instead of being antagonistic to the original motion, it would be the most certain means of giving effect to the object in view, and of causing the money required to be appropriated in the most economical form, and in the way that would be of the highest benefit to the colony.

The Hon. H. G. SIMPSON said he was very glad to see the motion brought forward by the Honorable Mr. Brown, and he agreed with the Honorable Mr. Gregory in supporting the amendment of the Postmaster-General. There was no question whatever that the present system of survey in this colony with simple compass and chain led to enormous errors; and, as the country progressed, they would be very much greater. The errors might not, perhaps, appear so much in one neighborhood, as long as the surveys worked in one direction; but, when the surveys worked westward to meet the surveys eastward, it would be found that there was a serious difference, and that the lines would not meet, but would overlap one another, and would give rise to disputes as to whom property belonged, or would leave gaps which also would lead to trouble amongst proprietors. The magnetic meridian was not only rapidly changing, but even without changing, supposing the surveys were working upon the true meridian, as they were worked in almost every country in the world except New South Wales and Queensland, in a long distance the spherical excess, which was due to the curvature of the earth, would lead inevitably to error. That should be corrected by the establish-

ment properly of certain trigonometrical points over the colony. They need not be very close together; they need not, in the first instance, be determined to any very fine degree of exactitude, such as in the Ordnance Survey of Ireland, which had been alluded to by the Honorable Mr. Brown, and other Ordnance surveys. But, short of that, the work could be done in a way to suit the requirements of Queensland for the next fifty or sixty years. Astronomical bases measured twenty or thirty miles in length by the most careful observations of latitude, with the true bearings from point to point—of course, these would have to be as nearly as possible in the meridian—would give quite sufficient for the next fifty or sixty years; and they could be established at one quarter of the expense of the minute surveys which had been carried out in Ireland. He had a great deal of experience in surveys of that sort, at the Cape of Good Hope, under the Imperial Government, which sent out a party for the verification of a base of the measurement of an arc of the meridian. For that purpose the survey party measured very carefully a base upon a flat sandy plain of about seven miles, and that was extended for about—in a triangular form, he should say—one hundred miles each way. That was done at the expense of the Home Government; but the colony, with not one-half of the wealth, or even the white population of Queensland, extended the survey to a very considerable distance, and found its account in doing so. He believed that, at the present time, it was contemplated by the Government of the Cape Colony to extend the survey over the whole length and breadth of the colony; and he thought it would be very important for the Queensland Government to do something of the same sort. A Select Committee would be able to get sufficient evidence to justify them in bringing up a report which would enable the House to pass a resolution justifying the Government in making an appropriation to give it effect. More than the advantages already enumerated, such a survey would give opportunities for a general feature survey of the colony, which need not be carried out in its minuteness, as he said before; but a general feature survey might be made, which would give facilities to surveyors laying out roads and railways, and so on, in the future, and in which the general lay of the country would be recorded;—such a survey would facilitate their operations. At present, surveyors had to go over the bush with chain and level and compass, and blindfold, as it were, mark every inch of the country traversed; whereas, in the case he had been supposing, they would have the general features of the country laid down on the maps, which would afford at all events a preliminary guide to them. He did not know that he need say any more on the matter, which, he thought, commended itself to honorable members upon its merits. The only thing he might add was that if the committee should bring up a resolution favorable to the undertaking, they would have to send it down to the other House for a Bill to be brought in, otherwise the Council would commit a breach of privilege! Any how, he thought it would be well worth the while of the Council to appoint the committee, to see whether some commencement of the survey desired could not be given effect to.

The question was then put upon the first resolution, which was affirmed. The amendment upon the second resolution, for the appointment of the committee, was also affirmed.

THE CONTINGENT ACCOUNT OF THE COUNCIL.

The Hon. A. H. Brown moved—

That this House is of opinion that the detailed expenditure of the Contingent Account be periodically examined and audited by the Standing Orders Committee.

His giving notice of this motion had arisen, he said, from the circumstance that from the report upon the account of last year, laid on the table, it appeared to have been dealt with in a very unsatisfactory manner by the late Clerk of the Council. He was quite satisfied that it would be more satisfactory to the present Clerk of the Council that the accounts should be examined and audited periodically. It seemed strange that there should have been no audit whatever for years past of an account, which, he (Mr. Brown) supposed, must be of some importance. He was not prepared to say what amount was usually voted for the contingencies of the Legislative Council; he supposed it was £100 or £200 a-year that the Assembly was called upon to appropriate for the service of the Upper Chamber; but it was very important that notice should be taken of the way in which the money was spent. It appeared to him that the Standing Orders Committee were the proper body to take cognisance of the account, and to see that the just debts of the Council were paid when incurred. When, the other day, inquiry was made as to how the funds had been expended, no one could tell. He had not examined the account himself. However, that did not affect the question he now put before the Council, which, in itself, was simple.

Question put and passed.

OATHS BILL.

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

Clause 1—Mode of taking evidence of persons incompetent or objecting to take an oath:—

"1. If any person called to give evidence in any court of justice whether in a civil or criminal

proceeding shall be ignorant of the nature of an oath or shall object to take an oath or shall be objected to as incompetent to take an oath for any cause 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 I make this solemn promise and declaration in the full knowledge that if I do not speak the truth the whole truth and nothing but the truth I render myself liable to the penalties of wilful and corrupt perjury."

The Hon. H. G. SIMPSON moved an amendment in the shape of the following proviso to be added at the end of the clause:—

"Provided that it shall be the duty of the presiding judge before proceeding to take the evidence of any such person to satisfy himself that he clearly understands the meaning of such promise and declaration."

When such a person came before the Supreme Court, there was no necessity for the precaution implied; but before the ordinary magistrates in the country districts some provision of the sort was absolutely required.

The POSTMASTER-GENERAL: No doubt it was highly desirable that any deponent who had to make the declaration set out in the clause should thoroughly understand its purport; but he thought it was unnecessary to add the words proposed, because if a witness was not conversant with the English language, he would be sworn to the declaration through an interpreter, and the condition was made in the third clause of the Bill, that the presiding judge should be satisfied that the interpreter

"understands the language of the accused or other person between whom and the court he is called upon to interpret sufficiently to be able to make a true explanation of the evidence and other proceedings."

To add the proviso to the first clause would be mere surplusage; there being sufficient protection in the third clause for a foreigner or other who did not understand English.

The Hon. A. H. BROWN thought the amendment might be received, though it was not absolutely necessary. It was desirable, because it should come under the notice of courts of petty sessions, where magistrates might not be conversant with the points of the third clause. He should have an amendment to propose when the one now under discussion was disposed of.

The Hon. F. T. GREGORY coincided with the opinion last expressed. Though theoretically the amendment might not be necessary, yet, regarding it from the point of view taken up by the Honorable Mr. Brown, it would be an improvement to insert the words in the first clause. It would be well to make the explanation of the declaration compulsory; because, from the class of witnesses that would be examined under it, unless that were done, the House might as well pass a measure that their evidence should be taken without any preliminary obligation whatever that they should speak the truth. Again, from that class of witnesses, very few courts would attach weight to evidence unless it was substantiated. With the amendment, the clause would be deprived of its mischievous tendency; and the evidence of such witnesses would only have that weight which the court might choose to award to it.

The question was put on the amendment, which was agreed to.

The Hon. A. H. BROWN moved a further amendment, to follow the one just made in the clause. He did not consider that the testimony of aborigines was to be relied on; and, to pass the clause as it stood, would be to place the lives of European colonists very much at their mercy. When the Bill was before the House, last year, he strongly objected to the provision which admitted such evidence. South Sea Islanders had some clear conception of what was expected of them, to speak the truth; but the aborigines thought the truth just what might be pleasing to their interrogator. He moved that the following be added to the clause, after the last proviso:—

"Provided further that nothing in this section contained shall be construed to render admissible the evidence of any aboriginal native of Australia.'

The Hon. G. SANDEMAN: Having lived a good many years in the interior of this country and seen a great deal of the aborigines, he was conscientiously bound to support the amendment. It seemed hard that one should say one would not accept the testimony of men with whom one had lived and associated for years; but it was so. He must say, the very want of character and of any education, the utter absence of principle, the inherent savagery of the race consequent thereon, led him to the conviction that their evidence on any question or occasion where their own interest was interfered with was absolutely unreliable. He had had black-boys in his service that he could depend on, that had lived with him from their childhood; but that did not alter the question. It was not exceptional instances that must guide the committee in determining the question before it; the character of the people generally must be considered. As a whole, he took exception to the character of the aborigines. The evidence of a blackfellow might tell against the life of a respectable European. A judge could not be a proper authority upon such a question as to the value of an aborigine's evidence, as he could not have the intimate knowledge of the race that even many honorable members, with far less talents, had. He

spoke as a practical man, and he would attach no weight to the evidence of an aborigine.

The Hon. W. THORNTON said he should certainly not vote for the amendment, which, if carried, would defeat one of the main objects of the Bill. He thought it was necessary that the evidence of blackfellows should be taken for what it was worth. At all events, it was as good as that of Chinese, generally, and fully equal to that of some Englishmen. The evidence was taken by the courts of a trebly-convicted felon, who had no fear of consequences here or hereafter, and who would be guilty of any crime; and why not take the evidence of a blackfellow, who could not be a worse witness? The blackfellow might have witnessed a diabolical murder, or some other of the brutal outrages on the blacks which were so startling when heard of; and why not receive his testimony for what it was worth against the guilty parties? The failure of justice in such cases was because the evidence of aborigines was not admissible. Yet the evidence of Chinese of the lowest grade was taken; and no one knew what was binding on their consciences, while it was pretty certain that they would not hesitate to give false testimony, and would stick at no atrocity. They were bound to tell the truth by the blowing out of a candle or a match, breaking a saucer, or the more brutal decapitation of a cock! Were blackfellows' testimony supported by circumstances or by other testimony, he (Mr. Thornton) did not see why it should not be regarded as equal to any other evidence, and, at least, as good as that he particularly referred to. The receiving of blackfellows' testimony in the courts of the colony might have the effect of stopping in some measure such frightful outrages as that from whose consequences, at the hands of justice, Wheeler absconded the other day; for, if the Bill were law, the evidence of his own troopers could have been received against him.

The POSTMASTER-GENERAL trusted sincerely that the committee would not pass the amendment. It appeared to him that the only objection that honorable gentleman who supported the amendment had to the Bill at the present stage, was, that blackfellows' testimony should be received. Whereas, it was absolutely beyond a doubt that the Bill did not propose that such testimony should be conclusive in any way; all it proposed was that the court should hear what everyone had to say about a matter in dispute before it. If a blackfellow's testimony was wholly unreliable—if he was made to tell a different story five minutes after he had told one—nobody would believe his testimony, and it could injure nobody. The court would hear what he said, but, in such a case, it would not believe him. His evidence would in all cases be taken for what it was worth. The courts heard the testimony of a thrice or four times convicted felon, but no jury would find a verdict upon such evidence unsupported or uncorroborated by other satisfactory evidence. It was not at all probable that the testimony of an aboriginal blackfellow would be acceptable by itself; but it might form a missing link and make complete the chain of circumstances supplied by other evidence—it might be the means by which the evidence in a case would be made conclusive. Certain circumstances might lead to one conclusion; but in the absence of a single link in the chain, which perhaps the testimony of an aborigine could supply, the case must fail. Yes, that testimony might enable true justice to be done. It would, of course, have to be corroborated, and would at best be taken only for what it was worth. That was all the Bill proposed; it did not propose, nor was it ever intended by any one, to make unreliable testimony reliable. If the testimony of any witness was unreliable, it would not be accepted. The lives of her Majesty's subjects were not to be jeopardised. In no instance, now, did a court accept as conclusive the evidence of a person who had a strong personal interest in the result of what he deposed. No jury would place reliance on the testimony of a white man, under such questionable circumstances; how, then, could it be supposed they would believe a black man?

In answer to the Hon. A. H. BROWN, and the Hon. G. SANDEMAN,

The POSTMASTER-GENERAL asked, would any sane man believe a person, white or black, who told one thing now, and a diametrically opposite story a few minutes afterwards, under cross-examination? Put a blackfellow into the witness-box; there was one fact; he deposed distinctly to that fact. If, on cross-examination he varied in the slightest degree, nobody, looking at the character that persons of his class bore, would for one moment believe his testimony affecting the life of a European. But, if his statement was clear as to the fact, and unvaried, why should it not be taken for what it was worth in the investigation of truth?

The PRESIDENT confessed that he was inclined to support the amendment. The Bill appeared to him intended to lessen the quality of evidence in any court affecting a man's life. Were it restricted to civil cases, he should not hold a strong objection against it; but where the life of any of Her Majesty's subjects was at stake, he should object to take the evidence of aboriginal natives of this country. The innovation was very dangerous. The question was now being discussed amongst honorable gentlemen who had very considerable experience amongst the aborigines, and of their manners, habits of life, and tone of thought. But, what did a Brisbane jury know about them?

HONORABLE MEMBERS: Hear, hear.

The PRESIDENT: Supposing an aborigine deposed that he had seen something done; a Brisbane jury would in all probability take his testimony for granted. Honorable members knew that, in many instances, such testimony would be absolutely unreliable. When he came to be cross-questioned, an aborigine would tell another story, probably; as, certainly, a clever counsel could make him tell a second story.

The POSTMASTER-GENERAL: Then, what harm in the evidence?

The PRESIDENT: What good in it? He did not want to make work for lawyers—to cross-question him! Anybody who knew the aborigines must admit that, if put under cross-examination, and flurried a little as to the consequences of their statements, they could be made to contradict themselves at any time. Therefore, it seemed to him (the President) that a proposal to admit their evidence was almost useless, and, at the same time, it might be very dangerous. Therefore, in case of a division being taken on the amendment, for the reasons given, he must vote with the honorable member who moved it

The POSTMASTER-GENERAL said he should like to point out to the committee that, if it resolved to exclude the evidence of aborigines, to whom the legislature owed more protection than to outsiders, great injustice would be done. For his own part, he considered the native blackfellows of Queensland quite as good as South Sea Island cannibals, some of whom colonists imported. He had not the experience of some honorable gentlemen, but he had some experience of the aborigines, and he had come across men who had been entrusted with thousands of pounds worth of property, and who were faithful to their trusts in all circumstances, being truthful and honest. He should be very sorry to place South Sea Islanders, who were imported into Queensland, in such a position. The testimony of Chinese of the lowest class was admitted on a form of oath that could not be regarded as binding on their consciences. He had experience of the Chinese, both in their own country and in the colonies, and he could say that amongst the lower class were to be found the greatest liars and prevaricators; in fact, he would never believe the oath of a Chinaman of that class, unless he saw the circumstances deposed to by him. They would deny absolutely what one saw them do before one's face, even when they had no interest in making a false statement. Yet the evidence of such a class was admitted in courts, and it was proposed to exclude the testimony of a class to which the colony owed great obligations, and towards which the legislature had an important duty to perform.

The Hon. W. THORNTON said he had considerable experience in his earlier years, and he had not come to the conclusion that lying was the besetting sin of the aborigines. Referring to the coolies of India, he said they were the greatest liars on the face of the earth, and not a word that came out of their mouths could be believed. He had known many truthful men, and respectable men, amongst the aborigines.

The Hon. G. SANDEMAN had experience of the natives of India, and the coolies were, in his opinion, a far more intellectual race than the aborigines of Australia; they had some education, they had religious views; whereas, with all our knowledge, we could not say yet what the religious views of the aborigines were. An Indian could be put in a state of fear as regarded the penalties due to a violation of an obligation imposed upon him to speak the truth; but an aboriginal Australian could not be bound at all. A Polynesian, if not a Christian by baptism, had received a certain amount of Christian teaching—he (Mr. Sandeman) did not speak of the savage and cannibal—and, as a rule, he was a superior being to the aborigine; he had some system to go upon, some moral code or religious motive; which could not be known or understood of the aborigine.

The PRESIDENT: All that the Honorable Mr. Thornton said of the persons the Bill sought to admit to give evidence in courts went to show that they were a very bad lot, and that the law was to be altered for a very questionable purpose indeed. They were to be asked to give evidence, and their evidence was to be taken *quantum valebat*. The more he considered the scope of the Bill, the less he liked it. He certainly could not see that the evidence of aborigines should be admitted, because the evidence of Chinamen and coolies was unreliable.

The Hon. A. H. BROWN repudiated the arguments of the Honorable Mr. Thornton in favor of the Bill; they might be urged in favor of letting the whole lot off, and admitting the evidence of none.

The question was put, that the proviso be added, and the committee divided:—

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The Honorables Sir M. C. O'Connell, W. F. Lambert, G. Sandeman, F. T. Gregory, and A. H. Brown.

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The Honorables W. Thornton, W. H. Yaldwyn, J. Gibbon, J. F. McDougall, H. G. Simpson, and C. S. Mein.

Resolved in the negative.

All the remaining clauses of the Bill were passed without amendment, and the Bill was reported to the House as amended.

REAL PROPERTY BILL.

The House resolved into Committee of the Whole for the consideration of this Bill, together with the report of the Select Committee, to whom it had been referred.

Clause 1.—Interpretation of terms—was amended by the omission of the definition of "applicant."

Clause 14.—Mortgages to building societies—was amended in the second sub-section by the substitution of "bill" for "memorandum" of mortgage.

Clause 16.—Transfers subject to a charge—was amended as to the letter distinguishing the first schedule, now "T;" and clause 18—making such instrument when registered equivalent to a mortgage—was also verbally amended.

Clause 22.—Equitable mortgage may be created—had been remodelled by the Select Committee to the effect, that no equitable mortgage may be created.

The POSTMASTER-GENERAL, remarking upon the altered construction recommended by the committee, pointed out that the subject was very important. The original clause was considered very undesirable, and it was contrary to the spirit of the Real Property Act that an equitable mortgage should be created by deposit of deeds; and therefore the committee altered the clause to the shape shown in the amended draft of the Bill appended to their report, that no equitable mortgage might be created. The amended clause he proposed to amend a little further, in order that the matter might be clear, and to place it beyond any doubt whatever. He might mention, that the essence of the Real Property Act was registration; but equitable mortgages were created under the old law without registration; and it was the opinion of the soundest lawyers that it could be done, as there was no express enactment to the contrary. He moved that the clause be struck out, and the following be substituted for it:—

"No equitable mortgage or lien or other charge of or upon any estate or interest in or security upon land under the provisions of this Act or of or upon any instrument affecting such land may be created by the deposit of the instrument of title or in any other mode otherwise than by bill of mortgage or bill of encumbrance duly registered under the provisions of this Act."

The Hon. F. T. GREGORY: The amendment would make the law of real property uniform. It must be obvious that to allow equitable mortgages would result in complications, and would interfere with the great principle of registration. The amended clause proposed by the Postmaster-General was in harmony with section 97 of the principal Act.

The question was put, and the original clause was omitted in favor of the new one as proposed.

Clause 23.—If buildings destroyed, rent and obligation to repairs to be suspended—was verbally amended and passed; so also was clause 24.—Heirs-at-law or devisee may apply to Registrar-General to be registered as proprietors—to modify the stringency of its original provisions.

Clause 27.—Judgments when registered to be gazetted—was omitted.

Clause 28 (now 27).—Sheriff's sales—was amended by the alteration of the schedule letter to "U," and the omission of the provision making the transfer subject to claims notified to the Attorney-General within fourteen days after registration of the writ of execution under which the land was sold; and by the clear definition of the encumbrances to which only the transfer should be subject.

Clause 30 (now 29).—Notification of caveat to be posted—was amended by providing for the registration of the letter sent by post.

The POSTMASTER-GENERAL moved the insertion of a new clause, to stand as 31 in the Bill, providing that a caveat should lapse unless proceedings were taken by the person on whose behalf it was lodged. He referred to the expense and inconvenience to which a proprietor might be put in removing a caveat which the caveator neglected to follow up, and which might have been lodged for improper motives.

The new clause was agreed to.

A new clause, to stand 37 of the Bill, was agreed to, giving power to the Registrar-General to make regulations as to licensed surveyors.

The Hon. F. T. GREGORY proposed a new clause, to stand 38 of the Bill, which clause had been approved of by the Select Committee, empowering the Registrar-General to appoint land brokers; a schedule, V., containing a scale of charges for land brokers, being dependant on the clause. The land brokers must enter into a bond for £500, with two approved sureties, each for £250, and make a declaration under the Oaths Act of 1867, for the proper execution of their duties. He had adapted the clause from the South Australian Act; and though he felt that the amount of security specified was excessive, yet he did not propose to depart from his model. If the committee considered that the amount was larger than the circumstances of the case seemed to demand, he should be willing to accept a reasonable reduction.

The POSTMASTER-GENERAL regretted that he felt obliged to oppose the clause. He did not think that any honorable member would suppose that he opposed it in the interests of his profession. In the interests of the public he protested strongly against placing power in the hands of incompetent practitioners under the Act to do serious injury to persons ignorantly employing them. There was not the slightest doubt that land agents and auctioneers now prepared ordinary instruments

under the Real Property Act, and that no harm ensued from it. He admitted that it was a very simple matter to fill up the stereotyped conveyance; but he did not think any argument was required to show that untrained and non-professional persons could not prepare every sort of instrument that arose necessarily under the provisions of the Act. But such persons had an idea that because they were familiar with the ordinary forms under the Act, therefore they could transact all business under it. They did not know the meaning of a bill of mortgage, or the difference between that and a bill of encumbrance; and, he stated with confidence, there was not a non-professional man in the colony manipulating those transactions who knew the effect of a nomination of trustees. Yet they would with all boldness undertake to fill up any instrument of that description. If they should be licensed, the public, or rather the unthinking part of it, would believe they were qualified to execute any and all business. There was no examination provided for; nothing to give confidence in the knowledge possessed by such persons of the business they were to be entrusted with, or to show that they were educated to understand it. Honorable members knew the rashness of ignorant persons, who did not weigh matters, and who, for the sake of a few shillings, would go to an incompetent broker to have any sort of instrument prepared. As to the faithful performance of duties, how could the Registrar-General recover from a licensed broker authorised under the Act, if the latter, acting on the instructions of an ignorant person, undertook to effect a nomination of trustees under which other persons were injured? No good would ensue. It was not the persons who executed the nomination of trustees who would be injured, but those whom he intended to benefit; his wife and his children; and the injury would probably not become known until after the lapse of a considerable time. For those reasons he protested strongly against the clause. The time had not yet arrived in South Australia for the discovery of injuries such as he apprehended would accrue under the clause.

The Hon. W. THORNTON said there was no professional man whose opinion he respected more than that of the Postmaster-General, and he believed the honorable gentleman was perfectly sincere in what he said: but professional men, especially legal practitioners, were generally found to be more or less warped by their profession. The clause proposed no experiment in this country, at any rate; and it appeared that the employment of licensed agents to carry out transactions under the Real Property Act had been a success in South Australia. Since 1861, in Queensland, nine-tenths of the transactions under the Real Property Act had been carried out by non-professional men. The public had yet to learn that any evil had ensued; and the public would still follow the present practice, because it was economical. The majority of the transactions under the Real Property Act consisted of the mere filling up of forms. However, he could not approve of the clause as it stood, and he would suggest a few amendments in it. In the first place, a license fee of £5 per annum was monstrous. Why should a land-broker pay more than a custom-house agent? The latter paid a fee of £10, which cleared him altogether. It appeared to him (Mr. Thornton), also, that the bond was for a ridiculously high amount—£500, and two sureties in £250 each. Comparing the bond and the license fee with the scale of charges permitted to the land broker in the schedule, he would be in a worse position when licensed than he occupied now. If the clause was not passed, the work under the Act would be carried on just as it was now, by agents acting covertly. But some provision should be made to allow to be done openly what was now done for the public without legal sanction. He understood that if a land agent could be proved to have received money for his services he would be liable to a very heavy penalty. Well, then, as the work was done, let it be done openly. But a land agent should not have to pay more than a licensed surveyor.

The Hon. A. H. BROWN acquitted the Postmaster-General of any desire to advance the interests of his profession. He thought that the more responsible and respectable the land agents were made, the more likely were they to perform their duties properly. When the Bill was before the Select Committee, he was anxious for the insertion of the clause now before honorable members, so that some kind of a guarantee should be afforded to the public that its business would be properly done, and that the land agents should come under the knowledge of the Registrar-General, who ought to be satisfied that the agents licensed to do that business were fit and proper persons.

The Hon. H. G. SIMPSON, as a member of the Select Committee, had given his adhesion to the clause, and he would support it now.

The POSTMASTER-GENERAL could not see the force of the argument that, because a thing was done now covertly, and in defiance of the law, therefore, it ought to be legalised. He did not object to the clause because it would allow land agents to fill up ordinary forms under the Act; for the profession knew that it was done by persons, now, without any license, and the profession had sufficient spirit to allow that persons could fill up those forms without coming within the law; but his objection was, that, if land-brokers were legalised to transact business under the Real Property Act, an inducement would be held out to the illiterate public to employ

them; and if brokers made mistakes through ignorance of the law, he questioned very much if they could be made liable for damages. By licensing brokers, the unlettered would be led to believe that the brokers were qualified to do the whole work required under the Act. Under existing circumstances, if any persons undertook a piece of business and committed an injury from want of skill, he would be liable for damages. If a person was licensed to do business without being required to pass an examination to show that he was qualified for that business, it was very questionable whether anything could be recovered from him for injury caused by his incompetence. It was on account of the inducement held out for the employment of incompetent licensed brokers, and of the injury which those who employed them would possibly suffer, that he objected to the clause.

The Hon. F. T. GREGORY held that the argument of the Postmaster-General cut both ways. If the business of the Real Property Act was to be carried on by land-brokers, it was best to regulate the body, and bring them within reach of the law.

The POSTMASTER-GENERAL: The honorable member's law was wrong. The case would be precisely similar if Parliament authorised persons without qualifications to perform the functions of a doctor. The clause proposed to legalise functionaries who had no legal education or training whatever.

The Hon. G. SANDEMAN gave the Postmaster-General full credit for having no regard to personal interest in the present matter; but the honorable gentleman must know there were great complaints on the part of the public against legal charges. The real object of the clause, he took it, was to benefit the public by a reduction of charges.

The POSTMASTER-GENERAL did not admit that.

The Hon. G. SANDEMAN: Would the honorable gentleman admit that the profession would take the same charges as were set out in the scale?

The POSTMASTER-GENERAL: He had not the slightest objection. They ought to be fixed.

The Hon. G. SANDEMAN was quite alive to the importance of having legal men to attend to important business; but he was sure there could be no objection to competition of the kind proposed by the clause.

Some slight alterations were made by the mover in the clause as printed in the draft Bill of the Select Committee, and the question was then put and affirmed.

Clause 39—Unregistered instrument to confer claim to registration.

The Hon. F. T. GREGORY said the Select Committee had been very doubtful about the clause, and would have excised it from the Bill but that it was deemed best to take the opinion of the House upon it. He was strongly opposed to it, as one likely to be productive of very great uncertainty, insecurity, and litigation; and some intelligent lawyers were of the same opinion as himself. Its effect was to make a transaction in land jump from A, over B, to C, and to pass property from the first to the third party without the intermediate steps between the first and the second parties. The present Master of Titles had shown by his evidence before the committee that he would not put himself in a false position by issuing a title to the third party under the circumstances stated. He (Mr. Gregory) moved the omission of the clause.

The POSTMASTER-GENERAL: The negative of the question would effect what the honorable gentleman contemplated by his motion, for which there was no need. The clause was prepared after very careful consideration of its exact force. It was an innovation; but it was conceived to be one that was necessary, owing to the peculiar circumstances of this colony. The real object the Government had in view was this:—Under existing circumstances no title accrued to a purchaser of land until actual registration. Some time elapsed before the issue of the certificate of title. In the interim, very possibly, the purchaser might have sold his interest and made arrangements for the conveyance of it to a third party; but he could not issue a conveyance pending the issue of the certificate of title, because it must be dated after the time his legal interest accrued. In this colony, property was constantly changing hands; and persons were here, to-day, and gone to-morrow. A man made a purchase of land in Brisbane, and ere his title was registered, he was off to Cooktown and sold to somebody else. In this case, it was desired to give the right to registration of the title in favor of the third party upon his production of evidence of the *bona fides* of the transactions with the other parties entitling him to registration. Nothing in the clause would compel the Registrar-General to register in favor of the third party, but it was optional with him to register or to refuse registration. It was only reasonable, all things being fair and above board, that the third party should get his title without the cumbersome process of going to the Supreme Court for a vesting order, and spending a lot of money. The clause would enable the passing of property to take place to the last purchaser, and give him a clear title when he could show the *bona fides* of the intermediate transactions from the registered proprietor; and it was a simple matter of justice.

The Hon. A. H. BROWN quoted the evidence of the Master of Titles against the clause.

The Hon. G. SANDEMAN objected that the clause involved a great deal that had best be avoided.

The POSTMASTER-GENERAL said he must certainly exclaim against the opinion of the Master of Titles being quoted as an authority, when it was apparent he was in a perfect fog about the clause in giving his evidence; Mr. Scott's answers were contradictory, and he wound up by saying that he did not understand the clause;—he might not have studied the clause sufficiently or have seen the full bearings of it, or he might have lacked comprehension; but so it was. Besides, on a question of law or expediency the Master of Titles was no more qualified than any other professional man to express an opinion. The clause was approved by the other professional member (the Hon. E. I. Browne) on the committee, as well as by himself; besides other gentlemen interested in the passing of the Bill approved of it. The clause was clear and intelligible and placed the matter beyond doubt; but if the committee would not approve of it, well and good.

The question was put and the clause was negatived.

The remainder of the Bill, including the schedules, one of which, V., was new, was passed with only verbal alterations.

On the House resuming, the Bill was reported as amended.