

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 31 MAY 1877

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LEGISLATIVE COUNCIL.

Thursday, 31 May, 1877.

Resumption of Land.—Real Property Bill.—Law of Property Bill.

RESUMPTION OF LAND.

The POSTMASTER-GENERAL moved—

That the resolution of the Legislative Assembly, embodied in the Message received from that House on the 23rd instant, be referred to a select committee, consisting of the following members, viz :—The Honourable T. B. Stephens, the Honourable George Edmonstone, the Honourable E. I. C. Browne, the Honourable F. T. Gregory, the Honourable A. H. Brown, and the Mover, in pursuance of the Standing Order of 1st September, 1875.

He said, as honourable members were aware, the Standing Order required that whenever any resolution asking for the resumption of any portion of a run under lease from the Crown was sent up to the House by the Assembly, for the concurrence of the Council, it must lie on the table for one week, and thereafter be referred to a select committee to investigate and report upon the policy of the resumption. The resolution had been on the table for more than a week, and, in pursuance of the Standing Order, the present motion was made.

Question put and passed.

REAL PROPERTY BILL.

The POSTMASTER-GENERAL moved the second reading of “a Bill to Amend the Real Property Act of 1861.” He explained to the House, yesterday, when he got per-

mission to have the second reading of the Bill made an order for to-day, that the Bill was almost *verbatim* a transcript of the measure that passed through the Council on a former occasion. The matter was very fully discussed when he introduced the Bill last year; and he had not the slightest intention to weary the House now by going over the ground again. There was no doubt that the Real Property Act of 1861, though a very great advance upon the law existing up to that time, was not perfect in all its details. Several defects had, from time to time, become apparent; and the opinion had grown, and was growing daily, that an amending Bill should be introduced to remedy those defects. The Bill now before the House went that far, and no farther. He should have been glad, if he had seen his way clear, to have introduced a Bill to consolidate and amend the law of real property, so as to have the whole in one measure. Looking at the important questions that were engaging the attention of the Legislature now, he would have little hope that such a measure, if it had been prepared, would pass through Parliament in this present session. He must, therefore, be content with getting just what he could; and he did not think that more could be obtained than the Bill provided for. He did not know if honourable gentlemen would like him to go into the provisions of the Bill; but, as his remarks upon a former occasion were fully and accurately reported in *Hansard*, he thought he should only be trespassing on the time of the House by doing so. As he had explained, the Bill preserved all that was recommended by the select committee and approved of by the House, last session, except two details :—He had excised the clause that had been inserted in the former measure, providing for licensed land-brokers. The feeling of the House upon it was pretty evenly divided on the occasion of its discussion; and he held that it was undesirable to introduce inexperienced unprofessional men as practitioners under the Act, as had been proposed. The little good that was expected by some persons from the provision would not counter-balance the evils that must result from it. In only one colony was it adopted, and he had heard that, there, it did not work successfully. He had also inserted a clause, forty of the present Bill, providing that an unregistered instrument should confer a claim to registration. It was left out on the former occasion by the committee; but he thought that some such provision should exist. He did not want to force his views upon any honourable member; but he had introduced the provision so that it could be reconsidered and discussed, and that, before the House came to a determination, they could thoroughly understand all about the question.

The Hon. H. G. SIMPSON: There was no necessity for him to say anything upon the second reading of the Bill, because there was no likelihood of its not passing. He had only to remark, with regard to the alterations mentioned by the representative of the Government, yesterday, that one honourable gentleman, who had been a member of the select committee of last session, with the Postmaster-General and himself, desired, in consequence of those alterations, that the Bill should be again referred to a select committee; and he (Captain Simpson) thought the idea might be abandoned, because the points on which the Postmaster-General wished to depart from what had been agreed to last session by the committee, and endorsed by the House, were such as could be equally well debated and decided in committee of the whole as in a select committee. The previous Bill had been referred to a select committee, because it required a great deal of evidence to enable honourable gentlemen to understand and master its *minutiae*, and the detailed investigation could be best made by a select committee. The two points now to be considered were not such as to need the appointment of a select committee. He was glad to see that there would be no opposition to the second reading of the Bill.

The Hon. A. H. BROWN, as a member of the select committee of last session, took the same views as the Honourable Captain Simpson and the Postmaster-General. He was quite satisfied that the Bill had passed through a severe ordeal, and had had a thorough review by that committee. He was quite familiar with the two points referred to by the Postmaster-General; and he thought with the honourable Captain Simpson that they could be effectually dealt with in committee of the whole. It would be a great loss to the country if the very valuable measure now before the House should be lost by any unnecessary delay. It was very essential that the Bill should pass through the Chamber at as early a period as possible. He had no doubt that honourable members would give the Postmaster-General every assistance in pushing the Bill forward; and he presumed that it would be considered in committee on an early day. The honourable gentleman should have his support.

Question put and passed.

LAW OF PROPERTY BILL.

The POSTMASTER-GENERAL said, as he intimated yesterday, he should only formally move the second reading of "a Bill to Amend the Law of Property," so as to give the House the opportunity of referring it to a select committee if they thought

proper. The Bill dealt with many important subjects which could not be readily explained at the present moment without going back over the past history of the United Kingdom, and going into very minute technical matters. It was simply an embodiment of provisions of many Acts that had been passed by the Imperial Parliament. A misapprehension existed amongst a great many people in the colony at the present time as to some of those provisions being adopted in our laws: as honourable members would see on reference to the first clause of the Bill, and as he had already stated, they dealt with many important matters, and it was undesirable that such a measure should be hurriedly considered or passed. He should be glad to have the Bill referred to a select committee, in order that its details should be discussed; and, thereafter, if the committee should report favourably, he should be prepared on its second reading to explain at length the different important provisions which it was proposed to enact. He had arranged with his honourable friend, Mr. Alfred Brown, who would move that the Bill be referred to a Select Committee. Therefore, he should not trespass further on the attention of the House.

Question—That this Bill be *now* read a second time.

The Hon. A. H. BROWN said that any person glancing through the Bill would recognize its importance, and the difficulty the House would have in judging of its provisions without ample time being given therefor. To a non-professional person it would be almost impossible, perhaps, to give that amount of attention which was demanded for the understanding of its details; and this the assistance of gentlemen qualified in the legal profession would enable honourable members to do. There appeared to him to be some provisions which were quite foreign to our present laws, and which it would be necessary to discuss with a freedom which could not be exercised except in a select committee. What most attracted his attention were the provisions relating to trustees, who appeared to be clothed with unusual powers—and very dangerous powers, to his mind. Perhaps he might be in error; but, in the view he took of the Bill, trustees could exercise unlimited powers in dealing with an estate. Therefore, he considered it would be advisable to refer the Bill to a select committee, and he moved, by way of amendment—

That all the words after "be," be omitted, with the view of inserting the following words:—"Referred to a select committee, consisting of the following members, viz.:—The Honourable the Postmaster-General, the Honourable E. I. C. Browne, the Honourable

F. T. Gregory, the Honourable H. G. Simpson, the Honourable J. C. Foote, and the Mover; such committee to have power to send for persons and papers, and to have leave to sit during any adjournment of the House."

The committee that he had named were very similar to the committee that sat on the Real Property Bill, last session—there was one exception—and he could testify to their untiring efforts in considering that subject. He had no doubt that on a Bill of somewhat kindred character their services would be of great advantage to the House.

The question was put on the amendment, which was affirmed *nem. diss.*
