Queensland

Parliamentary Debates
[Hansard]

Legislative Council

TUESDAY, 7 AUGUST 1877

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LEGISLATIVE COUNCIL.

Tuesday, 7 August, 1877.

Illness of the Clerk.—Resumption of Land.—Fortitude Valley Parsonage Bill.—Bank Holidays Bill.—Railway Reserves Bill.

ILLNESS OF THE CLERK.

The PRESIDENT informed the House that he had received a letter from the Clerk of Parliaments, applying for further leave, for one week, on account of his continued illness; and that he had granted leave.

RESUMPTION OF LAND.

The POSTMASTER-GENERAL laid on the table, by command, Schedule of Lands proposed to be resumed from runs in the Settled districts of Port Curtis and Kennedy, in pursuance of the powers conferred on the Legislature by the 10th section of the Crown Lands Alienation Act of 1868.

A message from the Legislative Assembly was received, requesting the concurrence of the Council in the following resolutions:—

"That 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 the areas hereinafter 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 districts:—

"SETTLED DISTRICT OF PORT CURTIS.

"About fifteen square miles to be resumed from Balaclava Run.

"About seventy-nine and a-quarter square miles to be resumed from Canoona No. 8, or Barmoya Run.

"SETTLED DISTRICT OF KENNEDY.

"About forty-four square miles to be resumed from Balnagowan Run."

Pursuant to the Standing Orders, the resolution must lie on the table for a week, then to be referred to a select committee.

FORTITUDE VALLEY PARSONAGE BILL.

The Hon. H. G. SIMPSON said, in the absence of his honourable friend, Mr. Thornton, he had consented to move the first reading of "A Bill to enable the trustees of an allotment of land at Fortitude Valley in the city of Brisbane granted for Church of England purposes to sell the same and to devote the proceeds to the building of a Parsonage in a more central situation"; and, though he did not know much about the measure, yet he had been asked to move the second reading, as his honourable friend, who was now present, was not very well. He wished to hold himself altogether clear from expressing any opinion on the advisability or otherwise of passing the Bill. He had his own view of the matter—that it would be best for the land to be leased, instead of sold under the provisions of the Bill. He was informed that the land might have been leased at a good price; and if it should be, the income could be applied to paying interest upon a fund raised upon mortgage for the erection on other ground of the parsonage proposed now to be erected out of the proceeds of the sale of the land; and that land, which was of great value, might become a permanent endowment for the church. However, perhaps the trustees and the churchwardens knew better than

he what to do; and they desired to have liberty to sell the land. He understood that it was not their intention to sell, if they could provide the money for the erection of the parsonage near the new church in any other way. As those persons who were most interested in the matter thought they were proceeding in the best way, and that the Bill was the best means of solving any difficulty that appeared in the way of their accomplishment of the object in view, and as there were no public grounds for objecting to it, he moved—

That this Bill be now read the second time.

Question put and passed.

BANK HOLIDAYS BILL.

On the Order of the Day being read,

The POSTMASTER-GENERAL moved—

That this House be now put into committee for the consideration of this Bill; and that it be an instruction to the committee to take into consideration the Report of the Select Committee on this Bill.

Question put and passed, and the House resolved into Committee of the Whole.

Clause 1—Short title—Commencement.

The POSTMASTER-GENERAL, being in charge of the Bill, moved the adoption of the recommendations of the Select Committee for its amendment; and in the first place, that, instead of the Bill coming into operation upon its passing, it should commence on the 1st January, 1878.

The Hon. H. G. SIMPSON asked, why it was proposed to postpone the commencement of the Bill?

The POSTMASTER-GENERAL said, it was considered that it would be unfair for the Bill to affect promissory notes now current. Very few notes had a greater currency than six months; but, few as they might be, it was deemed best to postpone the operation of the Bill. If the Bill came into force at once, the delay and loss of a day's interest upon a large amount payable on a promissory note, or on numerous bills, might be something tangible.

Amendment agreed to.

Verbal amendments were made in clauses 2, 3, 4, and 5, in pursuance of the recommendations of the Select Committee.

Clause 6—Day appointed for bank holiday may be vetoed by proclamation.

The Hon. H. G. SIMPSON said, it was quite possible that, after a bank holiday was postponed, another would not be required at all. On looking at the schedule, he saw an enormous number of bank holidays proposed—more than were observed in any other part of the world. If it should be found expedient for the Governor in Council to declare that one of the thirteen holidays specified should not be observed, it ought not to be incumbent on him to appoint another day in lieu of it. In accordance with that view, he moved an amendment to the effect that it should be optional with the Governor to appoint another day.

The POSTMASTER-GENERAL pointed out that the clause provided what the honourable and gallant member wished to arrive at. If it were found inexpedient that a bank holiday should be observed, another day would be appointed, "as to the Governor and Executive Council may seem fit." If the Governor in Council did not see fit, no holiday would be substituted. The amendment would be an unnecessary repetition of words; for, as the clause now stood, it was optional with the Governor to proclaim or not another holiday. It was absolutely in the discretion of the Governor in Council to veto and proclaim a holiday, as might seem fit; it did not necessarily follow that when a bank holiday was vetoed another should be proclaimed.

The Hon. H. G. SIMPSON maintained, that though the clause might bear the interpretation of the Postmaster-General, yet it was not apparent from its terms that such was the natural and *prima facie* interpretation. If a holiday should not be proclaimed in lieu of one vetoed, a grievance and a hardship would be sustained by those interested;—and, upon the face of the clause, that would be regarded as a forced interpretation.

The Hon. W. D. BOX thought there were too many holidays, and that it would be an advantage, if a holiday was rescinded, that another should not be proclaimed.

The Hon. A. H. BROWN and the Honourable T. L. MURRAY-PRIOR were averse to the amendment, and the latter suggested that it should be withdrawn.

The POSTMASTER-GENERAL contrasted the climate and circumstances of this colony with the mother-country. It was possible to work all the year round in Great Britain, without interruption; not so in Queensland. Bank clerks at home worked shorter hours then they did in this colony, where they were engaged more than once a week until ten or eleven o'clock at night; and he thought they were hardly dealt with. The holidays in Queensland were small compared with the amount of work the bank clerks had to do and the hours per diem that they were engaged. He believed in giving a reasonable amount of indulgence to persons who had to work hard; and that they worked better for it than if they were kept grinding away without indulgence.

The Hon. H. G. SIMPSON expressed his astonishment at hearing a native-born Australian admitting—he thought the Postmaster-General was the last person who would admit—that Australians could not do the work that Englishmen could do;—as he always understood that the Austra-

lians could do everything that Englishmen could do, and better, too! That might be peculiar to Queensland; for, as far as he could judge, in New South Wales the native-born were quite equal to any persons from the mother-country.

The POSTMASTER-GENERAL said: The Honourable Captain Simpson showed that he did not know what he was moving for. The Bill actually restricted the number of holidays; and the House were asked to legislate for the bank clerks only, whose noses were kept to the grindstone unduly.

The Hon. A. H. BROWN spoke in condemnation of the country banks and of the hardships to which the bank officers were subjected by being condemned to occupy such miserable places as those in which they had to carry on business.

The Hon. W. THORNTON urged the withdrawal of the amendment. He had been long acquainted with the work that bank clerks had to go through. Persons outside had no idea whatever of the work imposed upon young men in banks. The clerks were frequently kept up until two o'clock in the morning, and very often they did not get home from duty until daylight. There was not a bank in Brisbane in which the health of some of the young men had not been seriously impaired by the work they had to do; and they had to work longer hours in Brisbane than in the country. The holidays mentioned in the Bill were not superfluous at all; and he should be very sorry to deprive the clerks of one of them. If a holiday was vetoed by proclamation of the Governor, it was nothing but fair that another should be substituted.

The Hon. H. G. SIMPSON, admitting the explanation of the legal bearing of the clause, while holding that the Government would be morally bound to proclaim another holiday in lieu of one vetoed, eventually withdrew his amendment.

The amendment was, by leave, withdrawn; and the clause was passed, with a verbal amendment, as recommended by the Select Committee.

On the schedule being put,

The POSTMASTER-GENERAL proposed a new clause, as follows:—

"Sections 19 20 21 and 22 of the Bills of Exchange Act of 1867 shall be and the same are hereby repealed."

He explained that the repeal of those sections was necessary, because, though the schedule of the Bill would make an alteration in the law, as it existed, doubts might arise as to the intention of the Legislature, if it was not stated in clear terms that Good Friday and Christmas Day were no longer in the same category as Sunday. By the Bills of Exchange Act, bills falling due on Sunday, Christmas Day, and Good Friday were payable the day before; by the Bill, bills falling due on bank holidays would be payable the day after.

The Hon. T. L. MURRAY-PRIOR counselled caution in effecting any repeal of the law. A repealing clause should be in the beginning of the Bill, not at the end. It would be well to give time for the consideration of the question raised.

The Hon. H. G. SIMPSON suggested that his honourable friend's advice should be followed. There was important business before the House, and the Bill need not be hurried.

The Hon. W. THORNTON: It did not signify where the repealing clause stood in the Bill.

After deliberation,

The POSTMASTER-GENERAL moved the resumption of the House; which was

Agreed to; and the Chairman reported progress and obtained leave for the committee to sit again next day.

RAILWAY RESERVES BILL.

On the motion of the POSTMASTER-GENERAL, the House resolved into Committee of the Whole, to consider the Railway Reserves Bill.

Clause 2—Interpretation of terms.

The Hon. F. T. GREGORY held that the word "lease," as used in the sub-section defining "Crown lands," would mislead if it was not qualified. Unless the clause referred only to vacant Crown lands, there was no distinction between land leased to pastoral tenants and that held by conditional purchasers under the Act of 1868. He moved the insertion of the words, "except pastoral leases," after the word "lease" first occurring in the sub-section.

The POSTMASTER-GENERAL quoted the terms of the clause as showing that the honourable member's supposition was incorrect. The Bill applied to certain lands within the reserves set forth in the schedule. By the sub-section the words "Crown lands" covered every parcel of land within those reserves that was not affected by any contract, promise, or engagement by the Crown; also, all lands held under pastoral lease which were, by law, subject for the time being to reservation, selection, or alienation. It could not possibly affect any lands held by conditional purchasers or homestead selectors, or that were subject to any contract or engagement. Lands under pastoral lease were held subject to resumption, for reservation, selection, or alienation by auction or otherwise; the existing law provided that they were held subject to all the rights of the Crown.

The Hon. A. H. BROWN: Would wharfage leases, for instance, be affected?

The POSTMASTER-GENERAL: Clearly not. The definition had been very carefully drawn. He had had something to do with

framing the clause; he had carefully studied it; and he did not see how it could be improved. If the words were inserted, all the words following "Majesty" should be omitted: it was six of one and half-a-dozen of the other.

The Hon. A. H. BROWN: The definition included all town lands within the reserves.

In answer to the Hon. F. T. GREGORY, who urged the necessity for some amendment to define "lease,"

The POSTMASTER-GENERAL said that last year Parliament provided by statute that under the new ten years' leases, in the Settled Districts, the lands leased should be liable to reservation, selection, or alienation; therefore, the lands were Crown lands within the meaning of the definition. The leases under the Act of 1868 had some time to run. If the Bill was passed without the definition, it would be possible for the Government almost immediately to alienate the lands now held under the ten years' leases, which would be manifestly unjust. By a subsequent clause of the Bill new leases were created, it being provided that when lands were resumed under the 54th section of the Act of 1869, the resumption should not have the effect of taking them out of the hands of the pastoral lessees, who would occupy them subject to alienation. Therefore, they would come under the definition. The endowments of corporations could not be affected by the Bill. The reserves did not begin nearer than Warwick. Any land dedicated or affected by any engagement of the Government would not be Crown lands within the meaning of the Bill.

The amendment was, by leave, withdrawn, and the clause was agreed to.

The Hon. F. T. GREGORY observed that the wording of the fourth sub-section implied a reference to an amendment which he should have to propose in the 5th clause; and he desired to know if retrospective effect was intended to enable lessees in the Western Railway Reserve to avail themselves of the privileges given to lessees in the reserves created under the Bill, or to the resumption of half the runs only, and the exercise of pre-emption by consolidated selections.

The POSTMASTER-GENERAL: The Bill, except the last clause, did not apply to the Western Railway Reserve. The 5th clause hung upon the 4th clause, the word with which it began, "Provided," showing it to be a rider to what preceded, and that it must be read in connection therewith. Four reserves were created, and within them only half of the runs was resumed; if, afterwards, more land was resumed, it could only be done under special circumstances, as set forth in clause 5, and not otherwise. In the Western Railway Reserve the whole of any run could be alienated at any time under the provisions of the Western Railway Act. It was not proposed by the Bill to restrict the alienation in that reserve to one-half of the runs, as was provided for within the four reserves to be created under it.

The Hon. F. T. GREGORY urged that it was very harsh to the pastoral lessees who were unfortunate enough to have come under the operation of the Western Railway Reserve Act. They ought fairly to be placed in the same position as the lessees who under the Bill would be in the four reserves to be created by it. Referring to the hardships inflicted upon lessees in the Western Railway Reserve, he instanced one pastoral leaseholder who had lost no less than £10,000 from the fact of his run being resumed. It would be but just to introduce a provision to make the Bill retrospective as regarded the lessees in the Western Railway Reserve.

The Hon. A. H. BROWN thought an amendment would better come after sub-section 4 of the 4th clause than in the 5th clause. The lessee could pre-empt 2,560 acres. Why should he be compelled to purchase that quantity of land at 10s. an acre, if he did not want it? The land was not so valuable that all lessees required it. He wished to leave it discretionary with a lessee to take any quantity within 2,560 acres.

The Hon. T. B. STEPHENS would make a valuable suggestion to the two honourable gentlemen who last addressed the committee. They both objected to the sub-section; Mr. Brown to its form, and Mr. Gregory, that it was different from the Western Railway Reserve Act. Those difficulties could be got over by proposing the omission of the fourth sub-section of clause 4 and of clause 5. Then the Bill would be the same as the Western Railway Reserve Act, and the debatable points would be removed!

HONOURABLE MEMBERS: Hear, hear.

The Hon. T. B. STEPHENS: That would also save the House from any further attempt to make the Bill into another squatters' measure.

The Hon. H. G. SIMPSON: The suggestion was just what the House might have expected from a late Minister for Lands who had made the land question his peculiar study, and whose idea was, as regarded land administration, that the Government of the day should do what they liked—that they should be despotic. On the face of the earth there was no despotism equal to that of a democratic colonial Government. Not even the Emperor of Russia would dare to do such things as a colonial Government would do; simply for this reason, that the only penalty for their misdoing was the loss of their £1,000 a-year and official position, while they left everybody else to suffer. That was why he always held that the authority of Parliament should be exer-

cised as under the Act of 1868, and not that of a Minister, by a stroke of the pen, in resuming lands. The Bill was one which, to his mind, gave control over the whole colony to the Ministry of the day.

The POSTMASTER-GENERAL: The honourable member's remarks were simply absurd. He talked about the Act of 1868 being more liberal than the fourth subsection of the 4th clause now under consideration. If by liberal he meant an Act which enabled persons to swallow up the capital of the colony for their own ends, and fraudulently, and to the detriment of the country, to acquire large tracts of land, the honourable member was perfectly right. That Act was very successful in that way. He (the Postmaster-General) regretted that he was compelled not to adopt the suggestion of the Honourable Mr. Brown. No doubt the Act of 1868 was fully considered, which allowed the squatters their pre-emptive rights of selection, at a small price, without competition, for their improvements. In consideration of the advantages thus given, the lessees were expected to take the good land with the bad in their pre-emptions. He had no doubt that, instead of taking up four square miles in one block, many holders of runs would be glad to take up only one square mile! But, if they wanted to secure their improvements they must take up the full quantity of 2,560 acres, at 10s. an acre; and they ought to be glad to do so, seeing that land in corresponding districts had sold for 30s. an acre.

The Hon. T. L. MURRAY-PRIOR regarded the Postmaster-General's argument as fallacious. The honourable gentleman forgot that the land which had sold for so high a price was valued according to its position. Of course, if the lessees could pick out the eyes of the country, or get land near the railway, it would pay them to take it up; but that could not be the case; and he (Mr. Murray-Prior) could not see why they should be compelled to take up the whole 2,560 acres under pre-emption, or none. That was very unjust. Of course, no one would dream of taking up more than was necessary to secure his improvements, unless the land was specially valuable. The Postmaster-General was not fair in discussing the matter, and it would be much better if he did not use such strong language.

The Hon. A. H. BROWN: There was a certain savage facetiousness in the remarks of the Honourable Mr. Stephens, who seemed to have cultivated, during the recent portion of his life, a sort of distrust or suspicion of the pastoral tenants. Nothing came from squatters that was not, in his views, wrong—erroneous, suspicious, designing. He (Mr. Brown) did not wish by his amendment to provoke any feeling of that kind; but it seemed like shaking a red flag in the face of a bull. He expected to have the support of the whole House for his amendment:—

"And provided further that notwithstanding anything to the contrary in the said Act it shall be lawful for any lessee to pre-empt an area of not less than 640 acres."

Question—That the words proposed to be added be so added.

The Hon. F. T. GREGORY supported the amendment, because it was fair to the lessees that they should have the option of taking more or less Crown land. If the law allowed the land to be taken up in patches, he could see some objections to the proposal on the ground that it would be injurious to the public. He claimed that the lessees in the Western Railway Reserve should not be debarred from exercising their pre-emptives; and that it should be distinctly stated in the Bill that in this respect it referred to that reserve as well as to the reserves created under its provisions.

The POSTMASTER GENERAL: As he had already informed the honourable gentleman, except in the last clause, the Bill did not refer to the Western Railway Reserve Act; and even the 13th clause was foreign to the rest of the Bill.

The Hon. F. T. GREGORY: Would the honourable gentleman accept an amendment on the 13th clause, that lands within the Western Railway Reserve should be subject to all the provisions of the Bill?

The POSTMASTER-GENERAL: Certainly not.

The Hon. F. T. GREGORY: Then it was clear the honourable gentleman would make fish of some squatters and flesh of others; and he strongly objected to one set of lessees, simply from the accident that an experiment was made earlier applicable to them than to another set, being placed in a different position from those affected by the making of the reserves proposed under the Bill. Those in the west were not in a better country than those in the north and south. Circumstances had taken place which rendered it impossible to remedy some evils that had occurred. Where land had been alienated in the Western Reserve, the harm that had been done to lessees could not be undone. But it was not in accordance with the principles of legislation that such a distinction should be made between persons in the different reserves, and that injustice should be done to the pastoral lessees in the west. If the Postmaster-General was not prepared to consent to the amendment of clause 13, he (Mr. Gregory) should seek to amend the Bill elsewhere.

The POSTMASTER-GENERAL: In the interval of adjournment for refreshment, he would recommend the honourable gentleman to meditate on the parable with regard to the labourers hired for the vineyard!

The engagement with the pastoral tenants in the Western Reserve was contained in the Western Railway Reserve Act. The Bill did not deal with them at all. Honourable members did not come to the House to legislate for one class of the country, and in the interests of the pastoral tenants, but for the whole community.

HONOURABLE MEMBERS: Hear, hear.

The POSTMASTER-GENERAL: The advantage of the community at large was the highest law known to them as legislators. It was considered to the interest of the community that the Western Railway Act should be passed in its existing shape. The lessees within that reserve were a part of the country, and they were bound by that Act. By the Bill legislation was proposed for other districts altogether. If it was proposed to give to persons, at this late hour of the day, as much as was given to persons who were dealt with on a former occasion, that was, to his mind, beside the question. All the committee had to decide was, whether, in dealing with the reserves now proposed to be created, certain engagements should be made. If those engagements were more liberal than had been made with the persons in the Western Railway Reserve, so much the better for the persons in the other reserves. He should resist the amendment of the honourable gentleman, which would disorganize the whole machinery of the Act under which certain arrangements had been made for the disposal of land in the Western Railway Reserve.

The Hon. F. T. GREGORY: The lessees in the Western Railway Reserve would only be included in the Bill for the increase of their burdens! Their runs would be open to free selection, so that they could be taken up as speedily as possible; but that evil was not to be counterbalanced by giving the lessees the privileges of the Bill. The 13th clause would place them in a worse position than they occupied under the Act. Either leave them alone, and do not include them in the Bill at all; or bring them wholly under it. He disclaimed any interest in lands in the Western Railway Reserve.

The Hon. W. D. BOX considered that to insist that the pre-emptive should be 2,560 acres, and nothing less, was rather arbitrary.

The POSTMASTER-GENERAL combatted the ideas of honourable members by saying that the Bill was not one to amend the Act of 1869. The Honourable Mr. Brown would, by his amendment, apply a different rule to pastoral lessees inside the reserves from that which was, by the existing law, applied to lessees outside, who were restricted in their pre-emptions to a definite area. If lessees were allowed to take up less than 2,560 acres, at the moderate price of 10s. an acre, without competition, the eyes would be picked out of the country without any good result to the revenue, though with a vast increase of wealth to themselves. It would be unfair to confer on the lessees within the reserve a privilege that was not allowed to lessees in other parts of the country; and he was perfectly satisfied that, even if the Honourable Mr. Brown's amendment was accepted by the House, it would not be accepted by the country at large.

The Hon. F. T. GREGORY said that in his large experience of the country he did not know where the amendment would operate unfairly, with the regulations as to water privileges which were in force. But if a lessee should be compelled to take up more land than would enable him to secure his improvements on his run he might be a very serious loser. The amendment would enable him to take up enough land to secure his dwelling-house and everything in that way, without being obliged to spend £1,280. In several cases which he knew it would be an extreme hardship if lessees should be compelled to spend so much money merely for the right of securing their small holdings—men who had only a single block of country of twenty-five square miles.

The Hon. A. H. BROWN said it must not be forgotten that the Bill changed the tenure on which certain of the Crown tenants held their runs. As to picking out the eyes of the country, the conditional and homestead selectors enjoyed that privilege without being compelled to take up an extreme area; why, therefore, should the pastoral lessee be compelled to take up a larger extent of land than he required?

The POSTMASTER-GENERAL: It was a singular fact that the honourable gentleman only looked at the question in favour of those who occupied the Crown lands for a very small rental for many years past. Nothing about the interests of the public was heard from them. In the interests of the public, combined with justice to the pastoral lessees, he objected to what was proposed. There was nothing in all Australia equal to the liberality of the legislation of this colony in dealing with the pastoral tenants; and there never was a more liberal Bill than the present one before the Council. He defied honourable members to deny that. Yet they wanted something more than was proposed by the Bill. He should do his utmost to defeat their object. The remarks of the Honourable Mr. Gregory were beside the question altogether. The lessees did not exercise their pre-emptions to secure their dwellings, and, as a rule, they were made away from the head stations and homesteads, which were not interfered with by other persons selecting land. Conditional and homestead selectors had to improve their land; the

pastoral lessees might let it lie unimproved. There was no analogy between them.

The Hon T. L. MURRAY-PRIOR said, if all pre-emptive selections were examined, it would be found that the head stations were taken up, except in the case of Mr. Bigge, on the Brisbane River. Under the Act of 1868, three selections were allowed; one generally included the head station, and the others included any other land which might be liked by the lessee. Many of the original settlers under the New South Wales Government had bought their head stations before that Act came into force, and, unjustly, they could not pre-empt for the improvements they had made on the lands which they had paid for. It was in the interest of the small settler that the amendment was proposed; so that he should not be obliged to purchase more land than he required to secure his improvements.

The Hon. T. B. STEPHENS: What was under discussion now was the Pastoral Leases Act of 1869, not the Alienation Act of 1868. The Honourable Mr. Murray-Prior was doubtless right in saying, that on most of the runs the head station had been pre-empted; but as that was only one out of several pre-emptions on the same run, it could not be shown that the whole number of pre-emptions were for improvements. The head station, or a similar selection, was taken up under the Orders in Council; and only a few of the other selections were for improvements worth speaking of, perhaps a fence. So that, generally, the statement of the Postmaster-General was correct.

The Hon. A. H. BROWN denied that he regarded the Bill as illiberal. He was not urging the Government to give the lessees more than the Bill proposed, but liberty to take less.

The Hon. H. G. SIMPSON: To his mind the Act of 1868 was the most liberal that ever existed. He supported the amendment.

The Hon. W. F. LAMBERT: In most cases, the pastoral tenant would like to exercise his right to take up the full area allowed under his pre-emption; but some persons had settled down on miserable country, such as he had passed through within the last three or four days, between Roma and Dalby, and they wished to take up only enough land to secure their homes. Nobody would think of taking up the remaining country. He did not think that the public would suffer in any way by allowing those persons to secure their residences by taking up only as much land as they wished. The Government would not get any other persons to go there. They might sell it on deferred payments; but they would make the pastoral lessees pay 10s. an acre cash for it. He had not seen any land worth that price. To compel the lessees to take it up as proposed by the Bill, would be a hardship, and would drive them from the country.

The POSTMASTER-GENERAL congratulated the honourable gentleman on his arrival, at this late period of the session! It was a singular fact that he should, like last session, arrive at a very opportune time to assist his friends in the legislation of the country. His arguments were not in favour of the public, but in the interests of the "poor lessee," who had privileges conferred upon him that no other person had, of buying land without competition at a moderate sum.

The Hon. W. F. LAMBERT: By a published return, the amount received by Government for the land disposed of was 7s. and something over per acre, yet the pastoral lessee was to pay 10s. an acre cash. The interest on that would be found something considerable.

The question was put and the committee divided:—

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The Honourables J. C. Foote, J. Mullen, K. I. O'Doherty, G. Edmondstone, W. Hobbs, T. B. Stephens, J. Gibbon, J. C. Heussler, and C. S. Mein.

Resolved in the negative; and the clause was then agreed to.

Clause 5—One-half only of runs under 33 Vic. No. 10, to be taken—Runs may be consolidated, &c.

The Hon. H. G. SIMPSON moved the insertion of the following paragraph, in lieu of the fourth paragraph of the clause:—

"If it shall be deemed expedient to proclaim for sale or selection any further portion of a run in the said last-mentioned reserve a schedule of the lands proposed to be so proclaimed shall be laid before both Houses of Parliament and if such proposed proclamation shall be approved by resolutions passed by both Houses of Parliament the lands comprised in such schedule may after the expiration of six months from the date of the passing of such resolutions be proclaimed accordingly."

He said he simply wished to bring the lands under the same terms as the Darling Downs lands under the Act of 1868; and herein he did not think he could be twitted with any unfair wish to favour the pastoral lessees. For himself, he had not the slightest interest, direct or through others, in any pastoral lease whatever; and the course he took was one that was dictated by justice. The Act of 1868 was allowed to be in force until within eighteen months of the time that was laid down at its commencement—and he could never see the reason of shortening that time, except for some political or popular purpose;—the

Postmaster-General might laugh, but there was no other reason whatever why it should not have worked itself out. He was quite prepared to admit that at the end of ten years it would have been quite fair to put the runs under different provisions. During the time that Act was in force there were resumptions made over and over again; and he did not think the Postmaster-General could show an individual case in which there was even a colourable reason for resumption, that it was not assented to. It was travelling outside the necessities of the case to ask the House for further powers than that Act gave the Government. The great curse of the country was the irresponsible power which was placed in the hands of the Ministry of the day for dealing with the public lands. It should not be allowed. The least security that the lessees should enjoy was, that the resumption of their runs should be dependent on the approval of Parliament. It was not fair that the power of resumption should be with the Ministry, if their proposals were not disapproved of by both Houses of Parliament. Everybody knew that the Ministry, in another place—no matter what was done in the Council—if they pleased to say it was a crucial question, could get anything passed. The very question now under consideration was passed by the fullest House that had assembled this session; and the amendment he now moved was to bring the clause back to the shape in which it was when thrown out by the casting vote of the Chairman of Committees, on a division of 19 to 19. From good information he knew the Government had called their supporters together and intimated to them that if they persisted in supporting the amendment they would take their position into consideration; the consequence was, that a new clause was brought forward in the Assembly by the Premier, omitting the amendment which had been previously carried in the fullest House of the session, and that new clause was affirmed by the supporters of the Government ignoring altogether the votes they had previously given when they were unfettered. That was an instance of the despotism that was exercised by colonial Governments. He could not refrain from making an observation on the absence of certain honourable gentlemen of Darling Downs, who, when their own runs were in question, attended the House day after day, but who, when other men's runs were in question, did not make their appearance. If they were in their places, there was no doubt whatever that justice would be done to the holders of pastoral leases in the outside and northern districts. As they were absent, the consequence would be that the Government would have their own way. The Honourable Mr. Gregory had an amendment to move on the clause, with the same object as he had in view. But his (Captain Simpson's) was specially to put the clause in exactly the same condition as it was carried by the Assembly before the Government effected its final passing in its present shape by the casting vote of the Chairman. The Honourable Mr. Gregory's amendment, taken by itself, was better than the one before the committee; but he (Captain Simpson) thought that if the Council sent the clause back to the Assembly in the form in which it had been passed by that House without any undue pressure, there was a fairer chance of its being concurred in than by otherwise amending it.

The Hon. F. T. GREGORY: As the object of the Honourable Captain Simpson was identical with his own intentions, he had no wish to detract from its merits; and whichever way the committee might think fit to decide upon amending the clause, he should accept it. He had carefully considered the matter; and inasmuch as the amendment before the committee had failed to pass elsewhere, to send the clause back in the same words as had been considered by the Assembly would look like an attempt to force it down their throats. His intention was to move, on the last paragraph—

> That the words "not be dissented from," in the 39th and 40th lines of the clause, be omitted, with a view to the insertion in lieu thereof of the words, "be assented to."

The only question was, whether, if the amendment of the Honourable Captain Simpson was lost, the Chairman would rule that the other amendment, being to the same effect, could not be put.

The POSTMASTER-GENERAL objected to both the amendment before the committee and that suggested by the honourable gentleman who last addressed them. They were substantially the same. If one was rejected, he thought it would be hardly regular to put the other. It would be much better for honourable members to decide amongst themselves in which form they would move the amendment of the clause. To his mind that of the Honourable Mr. Gregory was far the least objectionable.

The Hon. T. L. MURRAY-PRIOR gave the preference to the amendment of his honourable friend, Mr. Gregory.

The Hon. A. H. BROWN supported the same views.

The Hon. H. G. SIMPSON contended that the only practical way to insure the approval of the amendment in another place was to put the clause in the condition in which it was before it was defeated by what he called a "dodge."

The POSTMASTER-GENERAL: As the two opposed movers had not made up their differences, it was best for honourable members to address themselves to the question before them, and to leave out refer-

ences to the other Chamber, which were contrary to the Standing Orders.

HONOURABLE MEMBERS: Hear, hear.

The POSTMASTER-GENERAL: The honourable Captain Simpson's proposal was, that when a demand for land existed, the Government must first come down to the Legislature to ask for permission to proclaim land open for selection; and after that permission was carried, six months must elapse before a sale could take place. The demand for land might arise six months before Parliament would meet; and twelve months would elapse before it could be supplied and a sale take place. Under the proposal of the Honourable Mr. Gregory only eight months' delay would occur. Six months' notice must be given to the pastoral lessee; and the proposed proclamation of the resumption must lie on the table of both Houses for sixty days. But he (the Postmaster-General) held that neither of the amendments would be agreeable to the community. The effect of passing either would be to alter the tenure upon which the runs were at present held, and to create a new tenure entirely; and the governing body would be forced to go again to both Houses to get their sanction to the disposal of land, which, according to the tenure upon which the runs were held, could at present be brought about by the action of the Ministry of the day, followed by the non-dissent of the Legislature. The Honourable Captain Simpson challenged him to point to an instance in which the Council had refused to consent to the resumption of land. He (the Postmaster-General) recollected an instance in which the whole of the proposals of the Government of the day were disapproved, and the community were kept out of land for twelve months; and that in the face of the almost unanimous expression of opinion in favour of resumption by the representatives of the people—the refusing parties being persons who had considerable personal interest in the matter. It was objectionable to make any change when, under the existing law, land could be available for settlement if both Houses of Parliament did not dissent from the action of the Government. The law now stipulated that both Houses of Parliament must interfere to check the action of the Government. The proposition before the committee would practically enable one House to do so.

The Hon. T. B. STEPHENS said the mover of the amendment had given two reasons for it. One was, to put an obstruction in the way of the resumption of land when it was wanted for sale, by requiring the approval of both Houses instead of the existing provision of the law that when Government proposed to resume they could take action unless both Houses dissented from it; in other words, that the clause should be assimilated to the Act of 1868;—nd the second reason was, the strong objection which the honourable and gallant gentleman had to the absolute power of the Government. With regard to assimilating the clause to the Act of 1868, was the honourable gentleman prepared to accept the tenure under that Act in its entirety—ten years' leases and the interest of the lessees absolutely ceasing at the end of the term? Under those circumstances he (Mr. Stephens) could see very fair reason for putting some difficulties in the way of resuming the runs and making the resumptions dependent on the assent of both Houses. But the leases that the Bill proposed to deal with were for twenty-one years, renewable, and with no definite end placed to their renewal: the nearest approach, practically, to a freehold, with a peppercorn quit-rent, that could be found. It was absurd, therefore, to make such a proposal as that before the committee, to place further restrictions in the way of resuming the land when it was required for settlement; and he should, of course, object to any alteration of the tenure in regard to the lands in the railway reserves. There were only two ways of getting out of the absolute power of the Government. One was, by requiring the assent of both Houses to resumptions, and to throw all difficulties possible in the way of settlement; and the other, which he did not advocate, was to give free selection before survey all over the colony, so that the power would not be in the hands of the Government but of the public. That was the only way the honourable gentleman could get over that dreadful fear he had of the absolute power of the Government. The amendment would only restrict settlement. The other side of the question was, that where Government required land for settlement, they should have it; and the House ought to take care that there was no longer delay than was necessary in supplying the demand for land. It would be best if the honourable member would withdraw the amendment. If such an amendment should be carried it would be the duty of the Government to drop the Bill; and then, the lessees in the reserves would be in the hands of the Government under the Crown Lands Alienation Act.

The Hon T. L. MURRAY-PRIOR: The honourable gentleman did not say that half of the runs were resumed.

The Hon. T. B. STEPHENS: Where did they go to? They all remained in the hands of the lessees until the land was purchased.

The Hon. H. G. SIMPSON, referring to the instance of the resumptions being stopped by the Council, as mentioned by the Postmaster-General, said he considered it right until the Government gave reasons for the resumptions other than the *ipse dixit* of a Minister. The instance was a good one of the arbitrary conduct of Ministers.

The Hon. A. H. BROWN contended that regard should be had to the interests of present settlers as well as those of the future, for whom alone the Honourable Mr. Stephens seemed to care. There was not a person in the community who had not more confidence in the two Houses of Parliament than in the Government, against whom suspicions arose of being unduly influenced by political pressure. The passing of amendment would relieve the Government from an unpleasant and painful position: that of Mr. Gregory would be the best, if Captain Simpson's was withdrawn.

The Hon. J. C. HEUSSLER: As something was said about free-selection, if it were adopted it would get rid of the great difficulties that surrounded the land question now. He should like in all laws that as little as possible should remain hereafter to be discussed. As, however, he saw by the Bill that Parliament was by no means without power over the resumption of land he did not see the force of either of the amendments. The land should be resumed, if not dissented from by both Houses. If ever the country had a Government that did not know how to act for the good of the community generally in the resumption of land, he did not see why the Parliament should not step in. Most honourable members of the Council were unaffected by a party cry; they generally followed the interests of the country, or, rather, they were guided by their reason to promote the public good.

HONOURABLE MEMBERS: Hear, hear.

The Hon. J. C. HEUSSLER: The position that honourable members of the Council held was so independent that whatever their views might be they need not be afraid of anything that a Government might do with the Bill in its present shape. They could always step in to interfere with a Government that did not act for the interests of the country.

Question—For the omission of the last sub-section—put and negatived, on a division, as follows:—

CONTENTS, 3.

The Honourables W. F. Lambert, T. L. Murray-Prior, and H. G. Simpson.

NOT-CONTENTS, 12.

The Honourables L. Hope, F. T. Gregory, A. H. Brown, J. C. Heussler, K. I. O'Doherty, J. Gibbon, T. B. Stephens, J. C. Foote, W. Hobbs, J. Mullen, G. Edmondstone, and C. S. Mein.

The Hon. F. T. GREGORY then moved the amendment of which he had before given intimation.

The Hon. W. D. BOX supported the amendment.

Question—That the words, "not be dissented from" (lines 39-40), proposed to be omitted, be so omitted—put and negatived, on a division, as follows:—

CONTENTS, 8.

The Honourables L. Hope, F. T. Gregory, A. H. Brown, Sir Maurice O'Connell F. H. Hart, W. F. Lambert, W. D. Box, and T. L. Murray-Prior.

NOT-CONTENTS, 9.

The Honourables J. C. Foote, K. I. O'Doherty, G. Edmondstone, J. Mullen, W. Hobbs, T. B. Stephens, J. Gibbon, J. C. Heussler, and C. S. Mein.

Clause 7—Mode in which land may be alienated.

The Hon. A. H. BROWN moved the following new sub-section, to stand at the end of the clause:—

"In the event of any lessee enclosing his run or portion thereof by a substantial wallaby-proof fence he shall on completion thereof give notice to the land agent of the district the cost of such fence which shall in no case be computed at a greater rate than [£120] per mile and any person purchasing or selecting land either by conditional purchase or otherwise within such enclosed area shall pay to the lessee a proportion of the cost of such fence estimated by the area of land which he shall have so purchased or selected as compared with the area enclosed in such run.

"The amount of payment to be computed by and paid to the land agent of the district at the time the purchase or selection is made and so soon as such purchase or selection is formally approved of the amount so received shall be paid by the land agent to the lessee before referred to."

The amendment had been laid on the table, and no doubt most honourable members had seen it. Recent information had been received of the destruction of wallabies on Peak Downs, but they were so excessively numerous in that neighbourhood, and their natural increase was so rapid, that they consumed all the herbage on the runs. He was quite aware that some proposal for dealing with the marsupial pest had come before another place; but the Council might judiciously introduce a provision in the Bill. He had been told by a gentleman from the north, that in eighteen months 100,000 wallabies had been killed; and yet there seemed to be no appreciable difference in the numbers of those animals that infested the district where that destruction had taken place. Wallabies were seen in troops in that part of the colony, or, as a friend described it to him, they seemed to come in a wave over the face of the country. The result was very serious to the holders of the runs, as their flocks could not subsist thereon; and it would be very serious to the colony if they should be compelled to abandon the land. Some decided action should be taken to remedy such a great existing evil. It was attributed by some persons to the extermination of the native dog, by others to the departure of the aboriginal race of the

colony: by all it was regarded as a great impediment to the progress of pastoral pursuits in Queensland. The difficulty in the way of individual settlers dealing with the question was very great; as all did not take an equal interest in destroying the wallaby. If a pastoral lessee spent £10,000 or £15,000 on fencing in his run, a selector who should take up land within his fence ought fairly to contribute his share for the advantage and protection he enjoyed from the existence of that fence. The necessity for keeping out the wallabies was shown in an instance he had heard of, where, on a run that formerly supported 30,000 sheep, only 3,000 could now be found; and the latter number was only kept up by the aid of dogs to hunt the wallabies.

The POSTMASTER-GENERAL: No honourable gentleman recognized more than he did the great difficulty that the pastoral tenants had to contend against in those districts which were infested by wallabies; and, personally, he should be very glad to assist as far as he could in relieving them of the difficulties which surrounded them, by legislation in that direction. But he doubted very much if the Railway Reserves Bill was the measure in which the required relief should be attempted. There was a Bill specially to deal with the subject before the Assembly, and he had no doubt it would come under the consideration of the Council at an early date. The clause now before the committee would not be fair under all the circumstances. The Bill provided that one-half of the runs should be resumed, and recognized that the other half would be liable to proclamation for selection or alienation at any particular moment; and, in view of that, it would hardly be fair to enable the Crown lessee to run up a wallaby fence round any land which was liable to be taken away from him, and to charge the selector therefor. As applying to any part of the run, such a provision would be a block to settlement, by adding largely to the amount that a selector would have to pay for his land; and it did not appear exactly what benefit would result to him from the wallaby fence. Honourable members said the land was poor, and that 10s. an acre was its full value; yet they would put an additional cost upon it for the selector. Further, there was some ambiguity in the amendment, which would make the selector pay in proportion to the amount of land enclosed in the run, and not in proportion to the amount enclosed by the fence. However, that was a verbal matter. In the last paragraph of the amendment the valuation was left to the *ipse dixit* of the commissioner, and the selector was forced to pay down the money immediately upon his application. By no statute existing was the selector so compelled to pay. The honourable mover forgot that the squatter would have an interest in putting as high a price as possible on his fence; and that he would for years have the benefit of it; that it would be unfair to make the selector pay in proportion to the original cost of it; and that its value at any time might be a fair question for arbitration. The amendment was too bald altogether, and required a proviso similar to that which was to be found in the Settled Pastoral Leases Act, relating to the value of improvements on the land selected. It was not suitable to the present Bill, and he hoped the honourable gentleman would not press the committee to a decision upon it now.

The Hon. F. T. GREGORY said the ignorance of the Postmaster-General, whose courtesy he acknowledged, misled him. If a lessee spent £1,200, or £1,400, in fencing-in 10,000 acres of land, which he would not do without expecting some advantage from it in his occupation; and if another person came and selected 100 acres of the enclosed land; surely the latter ought justly to bear a *pro rata* share of the expense of the enclosure of which he would get the benefit. No squatter would enclose land in the expectation of deterring selectors from coming upon it. The country overrun by wallabies was not, as a rule, the best land; some portions might be good. But, unless fences were erected to keep the wallabies out, the country would have to be abandoned altogether. Pastoral lessees might as well be checked in making improvements as not be encouraged to keep down wallabies. If the country was abandoned, the revenue of the colony would suffer. The improvements effected by pastoral tenants, for increasing the water-supply on their runs, and otherwise improving their grazing capabilities, had enhanced the carrying capacity of the country cent. per cent. He hoped the amendment would be carried.

The Hon. J. C. HEUSSLER said he should be glad to support such a provision in its proper place; but he was afraid the miserable fences would not keep down the wallaby pest. He had not yet heard what provision was proposed in the Bill that was before the other House; but he advised the Honourable Mr. Brown to reserve action until that measure came up to the Council. He might remark that in his native country the people had often to contend with something like a marsupial pest; and they had their *hasenjagd*—what he would call a *battue*, as there was no English equivalent for the word. As a young man, he had taken great interest in it; and he had known as many as 20,000 or 30,000 hares killed in one day. He had heard of kangaroo *battues* on Darling Downs, during a recent tour there; and he did not see why the several squatters and their *employés* should not establish free hunts. Like other vermin, the wallabies must be

hunted down until they disappeared or were made harmless.

The Hon. J. C. FOOTE opposed the amendment, on the ground that no fence could be erected that would be effectual to keep out the marsupial plague. That was his conviction from personal experience and practical knowledge. The cost of keeping up wallaby fences would be twenty-five per cent. of the original outlay.

The Hon. F. H. HART said from what he knew of the Peak Downs, through a friend, it was a question whether his run should not be given up owing to the marsupial plague. Though numbers of wallabies were killed, they seemed to be just as numerous as ever. Fencing would be a good thing; and, if the House saw fit to adopt the amendment, it would encourage the pastoral tenants to improve their runs by erecting fences.

The POSTMASTER-GENERAL should like to know what a wallaby-proof fence was, before voting for such a provision. Was it possible for any fence to be wallaby-proof? Deliberation on those points might be deferred until the Bill dealing with the subject of the marsupial pest was before the House. Certainly honourable members were not now in a position to settle it authoritatively. And from the circumstance of the amendment being inappropriate to the Railway Reserves Bill, he sincerely trusted that it would be rejected.

The Hon. T. L. MURRAY-PRIOR, speaking of the value of fences, said that Fassifern was enclosed for miles with fences, which were still being extended. There, many wallabies were destroyed by blacks "driving" them until they were stopped by the fences, when the animals became confused and fell an easy prey to the guns of men stationed to shoot them, or to persons who would run them down and kill them. In that way, 800 or 1,000 might be destroyed in a day. It would be perfectly useless to attempt to destroy them in that way without the fences on the run. Their destruction was necessary to save the herbage.

The Hon. A. H. BROWN urged the adoption of his amendment, for the encouragement of fencing and the consequent profitable occupation of the country. A wallaby-proof fence could be made of brigalow poles, procured in the scrubs which were the harbours of the wallabies, supported by wires. A Melbourne capitalist, who had invested £70,000 in squatting property on Peak Downs, was so harassed by the marsupials that he talked of retiring from his run. But for the marsupial plague the country was magnificent.

The Hon. T. B. STEPHENS maintained that the amendment was proposed to be introduced in the wrong Bill. The honourable mover had made no provision for the maintenance of the fences.

The question was put and negatived, on a division:—

CONTENTS, 6.

The Honourables F. H. Hart, T. L. Murray-Prior, W. F. Lambert, F. T. Gregory, L. Hope, and A. H. Brown.

NOT-CONTENTS, 8.

The Honourables J. C. Foote, G. Edmondstone, W. Hobbs, T. B. Stephens, J. Gibbon, K. I. O'Doherty, J. Mullen, and C. S. Mein.

In answer to the Honourable A. H. Brown,

The POSTMASTER-GENERAL said the point raised by the honourable gentleman's amendment would be taken into very serious consideration by the Government, whose desire it was to effect, by the Bill before the other House, the abatement of the wallaby pest as rapidly as possible, and to see the pastoral lessees relieved of the burden imposed upon them, consistent with justice to the community generally.

Clause 11—Colonial Treasurer may make advances out of moneys to credit of public account, &c.

The Hon. F. T. GREGORY objected to the term "Parliament" as appropriating public money, and suggested the substitution for it of the word "Legislature," which, as everybody knew, meant the Assembly, the Council, and the representative of the Queen, while Parliament meant only the two Houses.

The POSTMASTER-GENERAL: It so happened that the honourable gentleman was entirely wrong. The "Parliament" consisted of Her Majesty and the two Houses of Legislature. In May's "Practice of Parliament" it was laid down that the Parliament of the United Kingdom and Ireland was composed of the King or Queen, and the Lords Spiritual and Temporal, and the Commons—the three estates of the realm. Parliament was the word used in the Western Railway Act; it was an older word than Legislature; and all constitutional lawyers knew the peculiar meaning attached to it.

The clause was agreed to.

Upon the schedule being read,

The Hon. F. T. GREGORY said he had a new clause to propose, to stand 14th of the Bill, as follows:—

"In cases where one person or firm is the lessee of two or more runs in the Western Railway Reserve adjoining each other he may within three months from the passing of this Act apply to the Secretary for Lands to have such runs consolidated into one and thereafter they shall be considered as one run and the lessee may if he has not theretofore exercised the same exercise his pre-emptive right in the same manner as is provided by this Act."

He thought it was a fair and reasonable measure of justice to the lessees; and he trusted that the Postmaster-General and honourable members who acted with him would support the new clause.

The POSTMASTER-GENERAL: It was not his intention to oppose the insertion of the clause. He thought it was only fair to those lessees who had not exercised their pre-emptive rights, particularly as no disadvantage would ensue to the public from the extension of the privilege proposed.

Question put and passed.

The schedule was agreed to; and, on the resumption of the House, the Bill was reported with one amendment.