Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

WEDNESDAY, 8 SEPTEMBER 1880

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LEGISLATIVE ASSEMBLY.

Wednesday, 8 *September*, 1880.

Questions.—Motion for Adjournment.—Toowoomba Church Lands Bill—first reading.—Post Card and Postal Note Bill—third reading.—Burrum Railway.—Railway and Tramway Extensions Bill—committee.—Mail Contract.—Census Bill—committee.—Adjournment.

The SPEAKER took the chair at half-past 3 o'clock.

QUESTIONS.

The HON. J. DOUGLAS asked the Colonial Secretary—

Whether he has any objection to lay on the table of the House a Copy of the Report of the Surgeon-Superintendent of the "Scottish Hero" which refers to the absence of side lights from that ship?

The COLONIAL SECRETARY (Mr. Palmer) replied—

As the hon. member has a motion on the paper for its production, it had better now await the result of that motion.

Mr. DOUGLAS asked the Colonial Treasurer—

1. Whether during the hon. gentleman's absence from the colony he was authorised by Executive authority to act on behalf of the Governor in Council?

2. If so, has he any objection to lay a copy of such Executive minute or minutes on the table of the House?

The COLONIAL TREASURER (Mr. Mc-Ilwraith) replied—

1. I was authorised by the Governor in Council to perform certain acts during my absence in England.

2. None; if the hon. member, when moving his motion, No. 16, gives good reasons for the production of the minutes, and the House orders it.

Mr. SIMPSON asked the Secretary for Public Lands—

If he intends, during the present Session, to introduce any amendment in the Land Act to meet various Petitions presented to this House asking for extension of time in payments of rents upon certain Selections?

The MINISTER FOR LANDS (Mr. Perkins) replied—

The matter is under consideration. No decision has yet been arrived at.

MOTION FOR ADJOURNMENT.

Mr. FEEZ said he wished to refer to an error in *Hansard*, and would move the adjournment of the House to do so. In some remarks he made during the motion for a sum of money to put on the Estimates for the Mackay volunteers, it was said that he finished his short speech by saying that "a large sum had been spent on a staff which might be usefully employed in looking after such corps as the one proposed, instead of idling away its time at head-quarters." He did not wish to blame the reporters for reporting him wrongly; he knew that he spoke fast, and with a slightly foreign accent, and that might justify them; but he did not make that statement. It would come very badly from him, being one of the volunteers himself, to cast a slur upon the action of the staff at head-quarters. He wished to see the error corrected, as he did not make the statement.

Mr. BAILEY said he would take advantage of the motion for adjournment to call the attention of the House to another error, not an error on the part of the *Hansard* reporters, but an error which appeared in a Ministerial utterance reported. He hoped that when hon. members on his side of the House made statements they did so with a proper sense of the responsibility which attached to any statements they might make; that they were desirous, at any rate, to make statements which were correct; at any rate, it was only courteous on the part of hon. members on the other side of the House to treat their statements as truths, unless they were sure to the contrary. More especially did they expect that courtesy from Ministers of the Crown. He had occasion, last week, to make a few remarks with respect to the Divisional Boards Bill, and was met with contradictions from the Ministerial bench which he had since found were totally unwarranted. The statements he made were totally and absolutely correct, and it showed a great lack of judgment on the part of certain Ministers to contradict him in the way they did, unless they were satisfied that he was stating what was not correct. He stated that two or three Ministers had been consulted with respect to a doubtful point concerning the assessments under the Divisional Boards Act. He was reported in *Hansard* to have said that "the Minister for Works was also invited to give his opinion on the subject, and he told them that he was perfectly ignorant of the matter and could not advise them what to do." The Premier then ejaculated, "You are stating what is not true. You are misquoting the telegram when you represent that answer as having been sent by the Minister for Works." He had really said nothing about a telegram at the time, but asked "whether he was not stating the truth when he said that the Minister for Works told the Board of Charters Towers that he was perfectly ignorant of how fences should be assessed under the Act?" The Minister for Works was heard to ejaculate, "You are not stating the truth." He (Mr. Bailey) was not in the habit of telling lies, and objected to any Minister giving him the lie direct. He held in his hand the *Northern Miner* of the 27th April, which stated that a deputation from the divisional board at Charters Towers, consisting of Messrs. Deane (chairman), O'Donnell, and Bearup, met the hon. Minister for Works at Hishon's hotel. In the course of some remarks which he made to Mr. Macrossan, Mr. Deane said—

"They had also written asking for information on the point, whether fencing and stockyards were liable to be rated. The Act was not very distinct on the point.

"Mr. Macrossan said with regard to fences being rateable, it was a legal point, and would have to be submitted to the Attorney-General. The question had been raised in Brisbane before he left. His own opinion was worth nothing; it must be left to the Attorney-General, and they should abide by it. If they wanted an answer quickly they had better wire, or he would wire for them. If fences were liable to rating it would be a serious matter for the selectors down south; on the goldfields it did not matter so much—the homesteads were only 1s. per acre, and the rating would be only a trifle on the land."

At the same time, they would mark how carefully the Minister for Works guarded himself by telling them that his opinion was worth nothing, and at the same time referring them to the Attorney-General. But when he (Mr. Bailey) asked the Attorney-General's opinion on this question in the House, he was told that if he wanted a legal opinion he must pay a lawyer for it. He supposed the board asked the same question of the Attorney-General, and they probably got the same answer. He found that this was the opinion of the hon. the Postmaster-General, given about the same time—

"It is just possible that the proviso in the Act that 'no rateable property held under Crown lease for pastoral purposes only, shall, apart from any valuation which may be put on houses and buildings thereon, be valued otherwise than in respect to the annual rent thereof,'—legally excludes fences, dams, and wells from rating; but such was certainly not the intention of the framers of the Act, or of the Legislature, as reference to the debates in *Hansard* will show. An ordinary landed property is valued with all the improvements upon it, and in adopting the rent of pastoral properties for the annual value it was not intended to exempt station im-

provements from rating any more than improvements on other descriptions of landed property. The meaning of the clause is evident, but the legal construction it will bear should be ascertained without delay."

Here was the Postmaster-General declining to give an opinion, and he continued—

"And if it be found to exempt improvements of the kind described an amending Act will be necessary."

After those two opinions no man could doubt that Ministers themselves were very far indeed from certain as to the meaning of the Act which they took so much pains to pass through the House last session. The other day he chanced to witness the commencement of the first appeal court against this Divisional Boards Bill, and he was not a little surprised to find that one of the first appellants against an unjust assessment was the Under Colonial Secretary, and of course that gentleman's appeal was graciously heard by the bench and very leniently dealt with; at any rate, he believed all the gentleman wanted he got. He (Mr. Bailey) witnessed a scene in that court which, if it was to be multiplied in other courts, would be most deplorable. He saw a large room crowded with indignant taxpayers shepherded by a lot of solicitors and barristers; and he saw magistrates, lawyers, and taxpayers in a perfect fog as to the real construction of this Act. He was glad to find that a very important decision was given on that occasion—a decision which he hoped would rule the proceedings in many other cases—and that was that the boards had not the indefinite power to fix a fictitious annual value on property throughout the colony, and that the annual value should not be more than five per cent. of the capital value. He had long argued that it was perfectly impossible to fix an annual value on property in the country districts. The annual rental on a property was the due proportion of the profit which remained after the expenses of working the property had been paid; but in the case of a large number of selectors, where a working man and his family only earned a bare subsistence, there was no surplus of profit, and there was no annual rental upon which the board could fix a tax; and, therefore, these poor men were taxed, not upon the mere annual rental on their annual rental, which was only a fiction, but heavily upon the supposed value of their holdings. With respect to this wheel tax, if he was rightly informed, more than one petition had been sent in to the Government by people who were liable to be taxed, notably the timber-getters protesting against it; but, so far, no reply had been made to their memorials and petitions against this unjust and novel tax. These were men who, at the present time, were actually paying a direct tax to the Government for the privilege of drawing timber, independent of the tax levied on the men who cut it and purchased it. The man was taxed as a drawer by the Government, and now came in another body, the divisional board, which put another tax upon him. He was between the devil and the deep sea, the only difference being that the devil taxed him on the one hand and the deep sea swallowed him up on the other: the man was taxed on both sides. He hoped the Government would see their way to give a decided legal opinion as to whether the boards had the right to fix this tax upon a single class. If they had the right, the men must submit to it; meanwhile they had a right to all the legal assistance the Government could give them, and to expect that the Bill should be worked with as little oppression as possible. He hoped this question would be taken into consideration by the Government, and he firmly believed that the divisional boards had no right to impose that novel taxation. But if the Government, through their legal adviser, concluded that they had, it was high time that the Divisional Boards Act was amended.

Question of adjournment put and negatived.

TOOWOOMBA CHURCH LANDS BILL—FIRST READING.

On the motion of Mr. GROOM, leave was given to introduce a Bill to enable the Trustees of an allotment of land in the town of Toowoomba, granted for the purpose of the erection thereon of a church in connection with the German Lutheran Church, to sell the same and apply the proceeds to the building of a church and parsonage in a more convenient situation.

Bill presented; read a first time; and ordered to be printed.

POST CARD AND POSTAL NOTE BILL—THIRD READING.

On the motion of the COLONIAL SECRETARY, this Bill was read a third time and ordered to be transmitted to the Legislative Council with the usual message.

BURRUM RAILWAY.

The House went into Committee of the Whole to consider the desirableness of introducing a Bill to authorise the construction of a Railway to connect the Burrum Coal Mines with the Maryborough and Gympie Railway; and

The MINISTER FOR WORKS (Mr. Macrossan) moved a resolution accordingly.

The HON. J. M. THOMPSON said it would be a good plan if the Committee got some information on this subject. For his own part he was totally ignorant of the object of the Bill. All he knew was what he had seen in the public papers; that it was a sort of private business, or a Bill of a private nature.

The MINISTER FOR WORKS said it was a Bill introduced in accordance with the Railway Act. The course adopted last year was somewhat irregular, and the object of the present Bill was to proceed in accordance with the Railway Act. A company had since then been formed, and the Bill was now introduced by the Government, and was one for which the Government was responsible.

Mr. THOMPSON said perhaps the Minister for Works would give some general idea of what was proposed.

The MINISTER FOR WORKS said it was not a usual thing to enter into the principles of a Bill before it had been read a first time, but he would tell the hon. gentleman what it was. A company had been formed to buy the Burrum Coal Mines, and that company had applied to the Government for leave to make a railway from the mines to a certain point on the Maryborough and Gympie line, for which they were to receive, according to the terms of this Bill, a bonus of 25,000 acres of land, to be selected in alternate blocks of 8,333 acres each, on each side of the line; and the Bill provided certain safeguards for the due carrying out of the work, and also for the commencement of the work, and for the carrying of mails, Government officers, materials, and men in the employment of the Government on the same terms that they were carried on the Government railways. It also provided that the material carried upon the line up to the junction of the Maryborough and Gympie Railway would be carried to the termini of that line by the Government. Those were the general terms of the Bill. If the hon. gentleman would only have a little patience he would soon have the Bill in his hands.

Mr. KING pointed out that it was quite correct to bring in the Bill as a public Bill, provision to that effect being contained in the 20th and 26th clauses of the Railway Amendment Act of 1872.

Question put and passed.

The resolution was reported and adopted, and a Bill founded upon it introduced and read a first time, the second reading being made an Order of the Day for Wednesday next.

RAILWAY AND TRAMWAY EXTENSIONS BILL—COMMITTEE.

On the motion of the MINISTER FOR WORKS, the House went into Committee of the Whole to consider this Bill in detail.

Preamble postponed.

Clause 1 passed as printed.

On clause 2—"Railways to be made on roads"—

The MINISTER FOR WORKS said he had an amendment to introduce into the clause. Opinions were divided last night as to the power of the Bill to prevent compensation being granted for making a railway along the frontages of roads. To remove all doubt on that point, he would move the insertion of the following words :—

"And no person or body corporate shall be entitled to claim compensation for or upon account of any land being taken or used from any such public reserve or road, for any of the purposes aforesaid, or for any works or approaches necessary therefor, nor for any damage or inconvenience arising to them from such construction or maintenance."

Mr. McLEAN asked whether it was the intention of the Government, in the event of their constructing a line of railway along a road, to fence off the line?

The MINISTER FOR WORKS : No.

Mr. McLEAN said the clause was a most arbitrary one. If they were to make a deep cutting on a road, and it fell in, it would injure the frontages most materially. Within a few years, as he had before pointed out, a considerable portion of the railway embankment at Ipswich had fallen away.

The MINISTER FOR WORKS : We do not intend to make any deep cuttings along the main roads.

Mr. McLEAN said that removed the difficulty he was labouring under, and his argument would not apply. Perhaps the hon. gentleman would explain more fully to the Committee what the intentions of the Government were in that respect.

The MINISTER FOR WORKS said that, with regard to fencing, he did not think there was any necessity for it. The street tramways and railways of America and Great Britain were not fenced in, and that, too, when thousands of people were walking up and down along the line. There was even less necessity for it here, and it need only be done to prevent cattle straying upon the permanent way and injuring it. As to the second question, it would not be economical to take a line of railway along a main road where any deep cutting would have to be done. It would be cheaper for the engineer to deviate and go into private property, paying compensation for the land so taken. He might remark that the deepest cutting on the Fassifern line—in the thirteen miles he spoke of last night—was not two feet, and it might be obviated altogether.

Mr. DOUGLAS said a good deal of the working of the Bill must be left to experience; it would not do to lay down any hard-and-fast line. It was an innovation, but one which they were quite prepared to try. It would be rather an unusual thing to see locomotives and steam motors along the public roads, and probably people unaccustomed to them might at first object. Some accidents might also occur, but that ought not to deter them from trying the system, and the number of those accidents would enable them to decide as to whether it was safe or economical to carry on horse and carriage traffic alongside the locomotives. No doubt at the crossing of streets the trams would travel slowly; but it was hard to say what would be the result when they were travelling at the rate of fifteen or twenty miles an hour, if such a speed was contemplated. But those were matters of experience, and the Executive for the time being would no doubt act up to the exigencies of the occasion, and do that which experience had proved most wise. There would be no objection, even, to make slight embankments on the roads where the width of the original road reserve was sufficient to enable such engineering works on a small scale to be carried out. There was no essential reason why that should not be done. If it could, well and good; if not, the engineer must diverge from the road and take up what land he required. When the Bill came to be put in operation there would no doubt be a good deal of objection taken to it; but that should not stand in the way of trying to work it out. It was quite worth while doing so.

Mr. WELD-BLUNDELL said that in many parts of the world it was common for railways to run alongside roads. In America the line was fenced to prevent stock wandering upon it. In other countries they were absolutely unfenced. He had lately been in Bavaria, where the railways ran through the meadows, and where there was literally nothing to keep the stock in the fields from trespassing on the permanent way. The trains ran, too, at a very fast pace. The main line of railway between Venice and Munich passed through the fields, and the farmers managed to keep their stock off the line, though there was nothing whatever in the way of a fence to keep the cattle and stock from wandering over the permanent way. During a great portion of the distance the road ran parallel to the railway, and there was no division or fence whatever between them, not even a ditch. It was found that both cattle and stock very soon became accustomed to the noise of the engines, and were not easily frightened, and consequently accidents very rarely took place. With reference to the South Australian line, between Glenelg and Adelaide, it was at first supposed that a great many accidents would take place; but experience had proved the reverse. That was an instance of a railway passing along a road without any separation whatever. The train started from a square or broad road in the centre of the town, and ran down the main road the whole way to the town of Glenelg. Accidents there were not heard of, and he did not see why they should take place in this colony. With respect to the rate of speed, he did not consider that trains or branch railways to places like Sandgate were supposed to travel at a high rate of speed. If they travelled at twelve or fifteen miles an hour, that would be quite fast enough; and the advantages of such a line would be greater than the advantage of having such a high rate of speed as twenty-five or thirty miles an hour, as the hon. member for Maryborough suggested.

Mr. DOUGLAS: I said fifteen or twenty miles.

Mr. WELD-BLUNDELL said the dangers that would accrue from a line of railway passing along roads, especially where they did not pass through very populous districts, would be very small indeed. People would learn to keep their

horses from within a yard or two of the train, and to keep their heads turned from the engine : in fact, they would take proper precautions, and the very smallest precaution would enable them to avoid accidents.

The HON. S. W. GRIFFITH said he would call the attention of the Minister for Works to the phraseology of the amendment. He (Mr. Griffith) objected to the latter part, which provided that persons injured by the making of a railway along a main road should not have compensation. That amounted to confiscation. Property might in that way be absolutely confiscated. A case had several times come before a select committee of the House showing that Dr. Hobbs had been seriously injured by a large cutting, which rendered a great part of his property useless. But the injury done by such a cutting was nothing to what might be done by making a railway past a man's door. In a town it might render a man's property absolutely worthless, and in the country almost worthless ;—it was a matter of degree, of course. But the clause proposed to authorise such an injury without any redress whatever. That was such a departure from the usual principles of legislation that some very good reasons should be given for it. He himself thought that compensation should be given to the exact extent of the injury done, and no further. They might, if they chose, depart from the usual principle of making a liberal allowance to individuals injured for the public benefit, but if they gave the exact amount which would compensate for the injury done people ought to be satisfied. But he protested against anything like confiscation. He was quite certain no precedent could be found for such a proposition in any British legislature ; if there was one he should be glad to see it. The hon. gentleman (Mr. Macrossan) said yesterday that no compensation was given in New York ; but it appeared that no injury was done there, so that there was no necessity for compensation. He was not prepared to say that compensation should be given merely from the fact of the passage of a railway along the road ; but compensation should be given where premises were destroyed or injured by the railway works. Suppose a railway embankment 20 feet high were placed in front of a man's door ?

The MINISTER FOR WORKS : That is not possible.

Mr. GRIFFITH said the Minister for Works said it was not possible, no doubt because the plans would have to be submitted to Parliament. There was a proviso that the railway should be constructed at the proper level of the road. But what were those levels? There were none. The proper level of a road might mean anything. He supposed the proper level would be that which was considered best by the person who made the road. As to the injury caused by preventing means of access to a man's property, there was a provision in the Local Government Act that, in certain cases where levels were altered after they were once fixed, compensation might be claimed and given. But there was nothing of the kind in the present Bill. If the railway had to be constructed on the natural surface of roads it might be all right ; but he protested against no compensation being given when property was injured by destroying access to a man's place.

Mr. THOMPSON said he thoroughly understood the intention of the Bill. He knew of a case where a man exacted £30 for the privilege of having a tramway running in front of his door. The injury was immaterial ; but the man exacted £30, and got it. What was wanted was to do as was done in Elizabeth street, Sydney, where the tramway was run so as not to interfere with the ordinary traffic. He confessed the Bill went further than that, but he was quite willing to let it pass as amended, knowing it would be impossible to do any great injury to a man without his getting any redress. He confessed the force of the objections raised, but did not see how the clause could well be amended, unless a proviso were inserted to the effect that the surface at the time of the construction of the line should not be interfered with more than was necessary to carry the line along a flat surface. The proper level must necessarily be a matter of opinion. They must either adopt the natural level at the time of the construction of the line, or appoint someone to say what was the proper level. He would be glad to see the Bill passed ; but these things must be considered.

Mr. KINGSFORD said the difficulty raised would not apply to municipal districts, because he believed that wherever municipalities had advanced to any extent the levels were fixed. If it were intended to make a railway as suggested by the hon. member for North Brisbane, he supposed it would be necessary to tunnel. If it were intended to run a railway along any street in the city where the level was not fixed, the Government might insist upon the level being fixed before starting the line. As far as main roads were concerned, the point raised was scarcely worth consideration.

Mr. McLEAN regarded the measure not so much as a Tramway Bill as a Bill to enable the Government to construct branch railways in the country districts. He believed that was a view of the measure which was shared by the Government themselves. It was easy for a company to run a tramway along the streets of a city where the levels were all taken, but the building of railways in country districts was a very different matter. The question arose as to who was to fix the levels in the country districts. Was the Government supposed to do so ? The Government might construct a line from 1 foot to 2 feet above the natural level of a road, causing a severance in a man's property. If the man had a place of business upon his property it would be damaged. He did not desire to raise captious objections, but, while he desired to assist the Government in passing the Bill, it was his duty to see that the operation of its provisions would inflict no injury.

The PREMIER said there could be no doubt that the introduction of the words "tramway" and "railway" into the title of the Bill had led to no little confusion. He had asked many hon. members what was meant by a tramway as distinguished from a railway, and no two of the members to whom he applied agreed in their answers. "Tramway," he believed, was an old-fashioned term. There was not such a thing as a tramway in Australia. He took a tramway to be an old-fashioned arrangement, in which L-shaped bars of iron were placed upon a road to enable ordinary carts to travel. What they used in Queensland and in the colonies generally, were, properly speaking, railways. It was impossible to use a wheel with a flange upon a tramway, which required an ordinary wheel. The Bill was essentially a Railway Bill, and the Minister for Works would do well to omit the word "tramway" altogether. The objection raised by the hon. member for North Brisbane went to the root of the measure ; and if the hon. member carried his point the Minister for Works might as well tear up his Bill, which was designed to give the Government absolute power to use the roads. He held that the roads belonged to the Government, and that they were entitled to use them, if they chose, for purposes of railway construction. The hon. member

said there was no precedent for the Government assuming this power. He was much mistaken if that were not the case in Scotland, where colliery and public railways were made upon the roads by leave of the road commissioners for the county. The only compensation ever granted was in cases where right-of-way was interfered with. The member for North Brisbane argued that the case of New York was not applicable, because in that case no injury was done. Had the law entitling persons to make a claim for compensation existed at the time of the construction of the New York elevated railways, they would never have been made. When the plan was broached, such enormous claims were hinted at that it required the greatest influence to pass the measure through the Legislature. But the measure was passed, and the railways were made in spite of the property owners, who claimed millions. When the system had been at work for some years it was found that it inflicted no damage whatever upon property. He did not believe that railways along the common roads would do any harm whatever. If compensation were asked three or four years after the railroads had been opened, he was satisfied that no jury would be found to give a verdict for the applicants. If compensation claims for the cutting off of frontages were to be allowed, they might as well lay the Bill aside.

Mr. GRIFFITH said he did not propose that compensation should be given for the mere running of a railway along a road. Compensation should be limited to those persons whose right of access had been interfered with by an alteration in the level. Suppose a man found an embankment or cutting 20 feet high in front of his premises?

An HONOURABLE MEMBER: That cannot happen in town.

Mr. GRIFFITH said perhaps not; but in the country there were cases in which the gravest injustice might be done. Even in the streets of towns it would be necessary to alter the level sometimes. In some cases now in Brisbane one saw the road above the top of the verandah, and it was notorious that cases of gross injustice had occurred. He would have no objection to provide that compensation should be delayed until a railway had been in operation for a certain length of time; nor did he propose to give compensation for what was called injuriously affecting property by the near passage of a railway.

The COLONIAL SECRETARY said that in the Local Government Bill, brought in by the Government of which the hon. member for North Brisbane was a member, property owners were empowered to call upon municipal councils to fix levels within six months. If after that the levels were altered they were entitled to compensation. As was stated on the previous day, the plans and specifications for railways must be approved by the House, and it was not likely that the House would approve of running an embankment 20 feet high through any part of a town. Now that they could run railways at a gradient of 1 in 25, a few little hills would be no difficulty whatever in construction.

Mr. THOMPSON suggested the following provision:—

"Whenever the Commissioner for Railways shall construct any railway over any reserve or road, no compensation shall be paid to any person in respect thereof unless his access to and egress from his property shall be interrupted, deviated, or stopped."

The ATTORNEY-GENERAL thought the only damage or injury likely to accrue to property from the construction of the railways lay in deep cuttings cutting off access. He was inclined to agree with the Minister for Works that there would be very few deep cuttings. The Bill was framed essentially with a view to the construction of cheap railways, which could not be made with deep cuttings and embankments. If they gave persons a claim for the interruption of ingress or egress, there would be all sorts of imaginary injuries claimed for. A case in London occurred to him—the case of the Thames Embankment—in which the Duke of Buccleugh claimed £50,000 for having his access to the river cut off. The cutting off consisted of the substitution for a dirty mud-bank of a clean street and steps. All sorts of imaginary injuries of that kind would occur. People would allege that their ingress or egress had been interrupted by a slight sinking or raising of the road.

Mr. GRIFFITH said he did not go quite so far as the hon. member for Ipswich. The Colonial Secretary had pointed out that under the Local Government Act no compensation was allowed until the levels were fixed. Just so; he had pointed that out. But after the levels were fixed there was compensation. The Bill would take that away. The levels were fixed by the corporation, at least they had been in a great many cases. The levels in all the principal streets of Brisbane were permanently fixed; and, once fixed, the corporation could not alter them without making compensation. This Bill, however, provided that the Government might do so without making any compensation. The Attorney-General said it was not likely there would be embankments and bridges. No doubt they could be avoided; but the object of the Bill was to avoid taking private land, and if by putting up an embankment or a bridge they could avoid a detour through private land surely one or the other would be made? In the case of a road 66 feet wide, as many roads were, an embankment of 10 feet would render the road useless for practical purposes. They were told that Parliament never did an injustice; but he did not believe in empowering any majority for the time being to do it. Had they ever known of plans being rejected or scrutinised?

The PREMIER: I have seen plans, supported by the Government of which you were a member, withdrawn after scrutiny.

Mr. GRIFFITH said that was not on account of levels. What was generally looked at was the route. It would take someone who thoroughly understood the subject to say how high an embankment or how deep a cutting would be in front of a particular man's door. He hoped the Committee would not agree to the proposal of the Bill, which had the appearance of legislation in a panic. Someone had asked a large sum for compensation, and therefore the Government would give nothing to anybody, however just his claim. He hoped that sort of legislation would be avoided. He also hoped that the Minister for Works would adopt the suggestion of the Premier.

The MINISTER FOR WORKS said he had no particular objection to making the alteration recommended by the Premier. It was a matter of indifference to him whether the Bill was called a Railway Bill or a Railway and Tramway Bill. In support of his contentions in favour of provisions for compensation the hon. member for North Brisbane had cited quite an impossible case. No Government would attempt to make a railway through a town on an embankment forty or fifty feet high. The people whom the hon. member desired to see protected would be protected under the clause, which said that no compensation should be paid unless certain things were done. If a high embankment or a deep cutting were made then there could be a claim for compensation.

Mr. GRIFFITH : Where is that provided for?

The MINISTER FOR WORKS said in that part of the clause which provided—

"That such railways or tramways shall be constructed in accordance with the proper levels of such road, and over such public reserve in a manner calculated to cause the least possible public inconvenience."

He contended that that part of the clause provided the protection asked for. The hon. member for North Brisbane said that there was no precedent for the clause. As he pointed out last night, the Imperial Parliament had authorised the Board of Trade to grant permission by provisional order to make tramways along main roads, and tramways had been made in different parts of England on that authority. The Wantage line, which was to all intents and purposes a railway, was carried along the main road in front of the houses, and the engineer of the line, Mr. G. Stephenson, had stated that no compensation was paid to the owners of property along the road, except in one case—that was where the level of the road had to be raised directly opposite the site of a stable. The owner of the stable complained that through the alteration of the level there were no means of access to the stable, and it was held that that was a fair case for compensation. The Bill would meet such a case as that. There was no reason to imagine that any damage would accrue to any individual, except the loss of frontage to a road.

Mr. GRIFFITH said that the Minister for Works seemed to think that the words "the least possible public inconvenience" had some definite effect. But did he overlook the fact that in providing for the least possible public inconvenience a great amount of inconvenience might be caused to private individuals? He really thought that there should be a distinct provision that the owner of land should be entitled to compensation for damages sustained through the alteration of the level of a road—he would limit compensation to that.

The MINISTER FOR WORKS said the object of the Bill was to enable the Government to construct railways economically, and they could not be made economically if there were to be deep cuttings or high embankments. The lines would not be taken along roads where cuttings or embankments were necessary, and to avoid those works detours would be made through private lands. He would give a practical example. At the present time a survey was being made of a line from South Brisbane to Oxley, with a view to take the line along the main road. On the main road there was a high hill through which there would have to be a deep cutting for the purposes of a railway; but to avoid that a detour through private land would be made, as it was thought that by adopting that course a great deal of expense would be saved. The Government would not have any deep cuttings or embankments on main roads; where the nature of the country was such as to necessitate such works the lines would be taken over private lands.

Mr. McLEAN said he should like to know the meaning of the following words contained in the clause—

"And in cases where it is expedient to alter the levels of any road the Government shall pay all reasonable expenses incurred in connection therewith unless otherwise agreed upon."

Who had to make the alterations?

The MINISTER FOR WORKS : The local authorities.

The PREMIER said the object of the provision cited by the hon. member was that if the Government, for instance, sank the level of a road a foot they should ease off the levels adjacent so as to make them correspond. That was as much as the Government could be reasonably expected to do.

Mr. GRIFFITH said that would afford no protection to a private individual against damage caused by the alteration of the levels. They should not pass a Bill which would enable the Government to destroy a man's property without offering him reasonable compensation. It was all very well to say that it would not be done, but the best safeguard was to have it distinctly provided for.

The MINISTER FOR WORKS said that in England levels had been altered by permission of the local authorities. Private individuals were never consulted in the matter.

Mr. NORTON deemed it quite possible that some unforeseen difficulties might arise; and, as it would be advisable that some general provision should be contained in the Bill, he thought it would be well if the hon. member for North Brisbane would put his suggestion in the form of a distinct amendment. As to the suggested omission of the word "tramways," if it were clear that "railways" would include what were generally called "tramways," he thought there would be no objection to the word being left out. He hoped that before long they would have a number of the so-called tramways constructed throughout the colony. He thought it would be much better for the country districts to have these light tramway lines, which were in reality more durable than cheaply constructed railway lines. The engines now employed on tramways were not more than 6 tons in weight, and they could draw a load of 12 tons up a gradient of 1 in 18 around sharp curves without any difficulty.

Mr. GRIMES said that though it might not be the intention of the Government to make deep cuttings or high embankments, there could be no objection to having in the Bill provision for compensation. He could very well imagine that an alteration of even three or four feet in the level of a road would make a great difference to the owner of the land. If he were a producer it might materially add to the cost of getting his produce to the market or to the mill. For instance, if a sugar-planter had a frontage of a mile to a road along which there was only one place for ingress or egress, the alteration of the level might necessitate the carriage of the cane for an additional length of a mile, thereby, probably, increasing the cost of carriage to the extent of 1s. a ton. In such a case a serious injustice would be done to the planter, and he ought to be allowed compensation.

Mr. MOREHEAD said he would like to know whether, under the existing laws, the Government had not the power to alter the levels of a road?

Mr. GRIFFITH : Yes; but any person injuriously affected thereby is entitled to compensation.

Mr. MOREHEAD took it, then, that the Government had the power to alter the level of any public road without any reference to the Railway Act?

Mr. GRIFFITH said that when he had an opportunity he should propose an amendment to the effect that an owner of land adjoining a railway constructed along a road should be entitled to compensation for all damage to his property caused by the alteration of the road levels.

Mr. WELD-BLUNDELL said that if a case occurred where an owner of land was injured by the alteration of levels, it would be a simple

matter for the member for the district to point out that a distinct injustice had been done, and the House would, undoubtedly, take notice of his representations. The case would be a special one, and he did not think that the House would hesitate to grant compensation. It was completely within the power of the House to grant compensation, and therefore it was inadvisable to encumber the Act with such provisions as had been suggested. He could see no necessity for such alterations as had been suggested. The hon. member for North Brisbane seemed to think that the hon. members did not take the trouble to look at plans when they were laid on the table. He thought better of the House than that. The members for the districts through which it was proposed to make railways always paid particular attention to the plans, and they would take care that no harm was done to any individual without his receiving compensation.

Mr. GRIFFITH said the hon. member seemed to misapprehend the Bill. The Minister for Works said its object was to enable the Government to construct cheap railways, but it empowered them to build any kind of railway, cheap or dear. Under it a line could be constructed from the Brisbane station to Petrie's Bight, which would be a very costly work. The Committee had to consider not merely what the immediate object or motive of the Bill was, but how its provisions would operate. The hon. member for Clermont said that when an injustice was likely to be done the member for the district would point it out and the House would not permit it. Let them consider the case of the Fassifern line, which the member for Fassifern was anxious to see undertaken. Did anybody think that if one or two individuals would be injuriously affected by deep cuttings or high embankments, the hon. member would, as between the parties affected and the rest of his constituents, object to the railway, cause it to be put off, and advocate that a fresh survey be made?

Mr. WELD-BLUNDELL rose to a point of order. What he stated was that in a case of that sort the man could obtain compensation—not that the railway should be put off. It would be the duty of the member for the district to point out the grievances and that the individual was entitled to compensation. If necessary, a committee of the House might be appointed to inquire, and if it was proved that injury was inflicted the committee would agree to award compensation.

Mr. GRIFFITH said that no member for a district would obstruct the passage of a railway because an injustice would be done to a few individuals. The member for Clermont now said that the remedy for such a case was a committee of inquiry; but he (Mr. Griffith) objected to legalising hardship, and to saying that when hardship was inflicted a man might come to the House and get a committee of inquiry to give him redress. The man might not be able to find members of the House who would be willing to devote sufficient time to investigate his case. Hon. members opposite seemed to think that he was advocating a change, when he was really objecting to a radical change being made for which there was no precedent and not sufficient reason had been shown. Nobody disputed his contention that there were certain cases in which compensation ought to be given and which ought to be provided for; but when he proposed to provide for them in the Bill the greatest objection was made.

The PREMIER said he was sure no member of the Committee accused the leader of the Opposition of attempting to make a radical change. What they blamed him for was for sticking to the old order of things, which was obstructing the building of railways. The amendment suggested by the leader of the Opposition would totally defeat the object the Government had in view. Government undoubtedly asked for large powers, and he believed they ought to have them. There was not the slightest doubt that, as the leader of the Opposition had said, the Bill would apply to all parts of the colony, and to all kinds of railways; but the safety of property-holders lay in this—that when plans and sections were produced and it was found that serious injury was done to parties, such plans and sections would simply not be approved of. What object could there be in running a railway along a street requiring heavy embankments and cuttings, when in ninety-nine cases out of a hundred a better route could be got? The Bill gave the Government power to make railways along roads and get the sanction of Parliament, and he believed the few towns in the colony who would be likely to be affected would be able to look after their interests when they came before the House.

Mr. DOUGLAS said the effect of the proposed amendment was being exaggerated. It seemed to him that it would really meet a remote contingency, and only that. It would only operate in the case of a material alteration of levels, and where, in addition, adjoining properties were injured. It did not interfere with the operation of the Bill, but would meet some remote cases which might by chance occur.

Mr. MOREHEAD thought the Committee should object to pass a clause which could only be intended to meet a remote contingency, and he would point out to the leader of the Opposition that no legislation could be perfect. Under any Bill of the sort before the House there must be apparent injustice, but their duty was to legislate upon the principle of the greatest good for the greatest number, and the Bill went a long way in that direction. That there might be remote cases where apparent injustice might be done he did not deny, but he should like to see any similar Act to which the same remark would not apply. He held that the Bill as it stood was a good one, and that if it became law it would be of great benefit to the State. The question at issue between the Government and the leader of the Opposition was this—the Government came down with a scheme which they thought would enable cheap railways to be built throughout the colony, and the leader of the Opposition, instead of trying to help them, was throwing objections in the way. It was quite evident that unless some scheme similar to the one before the House was adopted they should have no branch railways. If the enormous sums which had to be paid in the past for resumed land had to be continued in the future, it was a case of good-bye to all railway construction in the colony. That was the question they really had to discuss, and he hoped that hon. members on both sides would assist in securing the adoption of some scheme which would enable the colony to have cheap railways. The scheme under consideration was the best for carrying out cheap railways which had been submitted to any colonial Parliament. When the Minister for Works had shown an honest desire to carry out the railways voted by Parliament he had been met by the exorbitant demands of greedy land speculators; and when the Government came to the House and showed how railways might be constructed economically and pay fair interest upon the cost, they were met by amendments from the other side which, if carried, would utterly destroy the whole purpose of the Bill. He sincerely trusted that if such an amendment as was proposed was passed the Government would

withdraw the Bill and let the onus of the stoppage of branch railways rest upon the Opposition. It was all moonshine to talk about injustice being done to certain individuals, for in any case of injustice there was always the right of appeal to the House, which he maintained was a just tribunal and did not unfavourably regard any just claim which was brought before it.

Mr. PERSSE said he trusted that the Ministry would on no account listen to the suggestion of the member for Mitchell, for it would be a crying shame to members representing districts to which branch railways had been long promised if by any possible means the measure should be thrown out and the construction of the railways further delayed. He was perfectly sure that the leader of the Opposition would not press his amendment if he thought it would endanger the construction of branch railways. Last session hon. members looked forward to this measure being brought into operation. He knew that the want of it had been the whole cause of delay in the construction of branch railways, and he for one should be greatly disappointed and disheartened if by any means the Bill was thrown out; and, looking at the matter in that light, he trusted the hon. member (Mr. Griffith) would not press his amendment. As to remote contingencies they could be well left to the discretion of the House, which would be ready to give compensation if damage was inflicted upon certain individuals. He saw, yesterday, that certain injuries might occur to individuals along certain lines by the railways cutting under buildings; but he was sure that on being pointed out by members of the House the parties would get compensation. If the House was going to put off branch railways from year to year many people would be driven out of the colony. At the present time a number of people were idle, and he wanted to see them employed on the branch lines, and if those lines were not constructed he should not continue a member of the House.

Mr. WELD-BLUNDELL said that where a great injustice was inflicted an appeal to Parliament could only be made as a last resource. Where a man suffered injury he would appeal in the first instance to the Minister for Works, and he did not believe that the Minister or the Ministry would be unwilling to grant compensation on their own authority, or ask the House to do so if it was felt that harm had been done.

Mr. GRIFFITH said the confiding disposition of the last speaker was very interesting, but they had had some experience in the colony of the ways of Ministers. He had never in his experience heard of Ministers doing such a thing as had been suggested; and as to the House readily granting compensation, the unfortunate suitors had a different tale to tell. He wondered how many years men would have to wait before they got redress. The Premier said the amendment that he (Mr. Griffith) proposed would do away with all the advantages of the Bill. The hon. gentleman could not have been listening whilst he was speaking. He understood the object of the Bill was to enable the Government to run railways along roads without giving compensation. He heartily agreed with that, but said that if by altering the levels of the roads a man's property was ruined compensation ought to be given. The Minister for Works said they would never alter the levels of a road so as to injure property; but, if so, what harm could be done by making the provision for which he was contending? He would put a case which was likely to happen. Suppose it was proposed to make a railway along Ann street to Petrie's Bight, the Corporation of Brisbane would be likely to agree to the Government doing so;—to construct that railway considerable embankments and cuttings would be required, the levels of the street would have to be altered, and the corporation would probably allow the alteration, as, according to the Bill, the Government would have to bear the expense. Suppose all this were done the corporation and the Government would benefit by the railway, but who would be the sufferers?—the unfortunate owners who would not have access to their property. They would not get compensation because the Act took away their right of claiming it. Under the Local Government Act, however, they would have been able to claim compensation for an alteration of the level of the street after it had been fixed. Then they had been told that on an appeal to the House justice would be done; but how long would they have to wait?—would it be as long as Dr. Hobbs? The case that he was attempting to provide for did not seem by any means to be a remote or imaginary one.

The PREMIER said the hon. gentleman seemed to forget that before a railway could be made down any street the plan of the railway and the level of the railway and of the street, would have to be laid before Parliament. Did the hon. gentleman mean for a moment to say that the House would in a spirit of injustice approve of the construction, down the middle of a street, of a line which would require high embankments and deep cuttings? He could depend upon the spirit of the House to prevent an iniquity of that kind. The Bill gave the Government power to do certain things after they had been sanctioned by Parliament, and each individual case had to come before Parliament. The hon. gentleman said the Government reasoned that too much compensation had been paid for property, and concluded that, for the future, none should be given, but he contended that in proper cases proper compensation should be given. Could the hon. gentleman suggest any means by which it could be done? Could the hon. gentleman suggest any better machinery for arriving at the amount of compensation to be granted in future?

Mr. GRIFFITH: No.

The PREMIER said the hon. gentleman knew that if he only suggested means by which money might be got out of the Government scores of people would be ready at once to avail themselves of the opportunity. The amendment which he proposed would have the effect of causing every man owning property along a road over which a railway was constructed to come forward and claim compensation on the ground that the level of the road had been altered. As an example of the fanciful claims which might be brought forward, and be considered sufficiently good to warrant the payment of money out of the Treasury, he might mention one which had been sent in to the Department in consequence of the action taken by Parliament last year in sanctioning certain railways. The Corporation of Brisbane said—If you make a railway up Queen street, or any other street, you will take away custom from our 'busses, each of which pay an annual tax of £8; and if we lose that revenue we shall claim as compensation £150 a-mile for every mile of railway throughout the town. The claim was, of course, a preposterous one, but it was one which might receive a good deal of political support, and one which the hon. gentleman, with his strong ideas of the rights of property, might be inclined to support. The Government were not asking for any extraordinary powers, as no railway could be constructed without the sanction of Parliament having been first obtained. To accept the amendment of the hon. gentleman would be to just revert back to the original order of things.

Mr. GRIFFITH said if the Premier would insist upon imputing to him things he did not say, he could not help it. He did not propose to revert back to the original order of things; he simply dealt with the question of giving compensation where a man's property was injured by alteration of the road levels. Under the present circumstances, if a railway went through a street, every man living in that street would be entitled to claim compensation. That was what the Bill proposed to put an end to; and he also desired that it should be stopped. But what ought not to be stopped was the awarding of fair compensation for real injury sustained. Neither did he suggest that a supposed railway along Ann street would be in a deep cutting; on the contrary, he said that the corporation would be very glad to level the road up, and run the railway along the level surface. Of course there would be a cutting along the sides in parts, and, in some cases, the road itself would be an embankment. In such a case it would not be the corporation who would suffer, but the owners of the adjoining land. Of course he only used Ann street as an illustration.

The COLONIAL SECRETARY asked whether any amendment was before the committee besides that of the Minister for Works?

The CHAIRMAN said the amendment of the hon. member (Mr. Griffith) had been suggested, but had not been moved.

The COLONIAL SECRETARY said if the hon. gentleman intended to move an amendment he had better do so, and let the Committee take a division. He had heard the same arguments half-a-dozen times since he came into the House.

Amendment of the Minister for Works put and passed.

Mr. GRIFFITH moved that the words "except as hereinafter provided" be added immediately after the words last inserted.

The MINISTER FOR WORKS: Will the hon. gentleman state what he proposes to insert further on?

Mr. GRIFFITH said he proposed to insert after the 1st proviso the following—

> Provided also that any owner of any land adjoining any road upon which any such railway shall be constructed shall be entitled to compensation, to be assessed under the provisions of the Railway Act, 1864, for all damage sustained by him by reason of the alteration of the levels of such road.

All compensation would then be done away with, excepting that for damage caused by alteration of the levels.

Mr. GRIMES said the surveyors who were engaged on the Ipswich road surveying for the Oxley and South Brisbane Railway had fixed the levels so that a cutting of 3 to 4 feet in the road in the middle of the village of Rocky Waterholes would be necessary. The cutting was opposite private property, and if this Bill were passed the owners would be unable to get any compensation.

Mr. KING said that great care was being shown for the interest of owners of property whom the Government might have to compensate, but the same care had not been shown towards those who looked to corporations for compensation. Cuttings of a great deal more than 3 or 4 feet had been made in towns without any compensation being given.

Mr. GRIFFITH said that was carefully provided for in the Act of 1868.

The MINISTER FOR WORKS said he could not accept the amendment of the hon. member for North Brisbane with the explanation he had given. The hon. gentleman proposed, by this amendment, to do away entirely with the effect of the Bill, because no railway could be made on any road without an alteration of the levels somewhere; and this amendment would give every individual who owned land on either side of the road the power of claiming compensation. The records of the arbitration office showed how such claims were dealt with; none had been sent in, however gross and unfair, which had not been dealt with, and almost always the larger the claim the greater had been the compensation.

Question—That the words "except as hereinafter provided" be inserted—put and negatived.

Mr. GRIFFITH then moved that the proviso which he had read be inserted after the words "agreed upon," further on in the clause. It was, he considered, necessary to have some expression of opinion on the part of the Committee with regard to a proposal to take away the right of obtaining compensation in cases where real injury had been sustained. Such cases had arisen over and over again in the colony up to as late as the passing of the Local Government Act, and he thought some provision with regard to such cases should be made in this Bill.

Mr. NORTON said the difficulty was that in cases of this kind assessors were always inclined to give an award in favour of the claimant, as was shown by the figures quoted by the Minister for Works last night. There could be no doubt that very much more had been given than claimants were entitled to. The Government wished now to simplify matters as much as possible. Of course, it was desirable that compensation should be given in cases where real injury was sustained, but he thought the amendment went too far.

The COLONIAL SECRETARY said if the amendment was carried things would be left in pretty much the same position as they were now, and in such a case he should advise the Minister for Works to withdraw the Bill. Such a provision would be nothing more nor less than an advertisement to parties to come forward and claim compensation. Unless they could carry the Bill as it was, or pretty much as it was, they had better be without it.

Mr. GRIFFITH said he wished the hon. gentleman would take the trouble to read the amendment, as then he would find that he had not understood the object of it. The hon. member for Port Curtis appeared to be of opinion that by it any person having land adjoining a railway would be entitled to compensation; but that was not the meaning of the amendment at all, or anything like it. What the amendment said was, that any man who was really injured by a railway altering the level of the road in front of his property should have compensation; but before he could get compensation he would have to prove that he had been really injured. It did not mean that every owner of land adjoining a railway or tramway should receive compensation; but only anyone who was injured by the level of the road adjoining his land being altered.

The COLONIAL SECRETARY said that he had perfectly understood the amendment of the hon. gentleman, and on reading it over a second time he arrived at the conclusion that it meant that if the level of a road was only altered six inches any man living alongside of it could claim compensation. That being so, if the amendment was passed it would make the Bill perfectly useless.

The MINISTER FOR WORKS pointed out that it would be impossible to make any railway without altering the level of a road. Supposing, for instance, the surface of a road was never touched, they must throw down a certain amount of ballast for the sleepers to rest upon. The

sleepers were first laid down and on them the rails were laid, and that would bring the top of the rails to between eight and nine inches above the level of the road;—thus, according to the amendment, every person living alongside of a road so made would be able to send in a claim for compensation. What would be the result? Some dozen or so of men would agree together to send in claims, and each would assist the other and swear that he was injured by the making of the line, and how could any commissioner, under such circumstances, prove that he was not injured? They might just as well leave the present Railway Act as it was as pass such an amendment as that of the hon. gentleman opposite.

Mr. DOUGLAS pointed out that in making tramways they would have to be made level with the road, especially if they were made in the streets of towns—in fact, that was often the greatest expense of tramways, as whole streets had to be re-constructed so that the tramway might be level with the road. He thought, therefore, the hon. Minister for Works hardly understood the nature of the amendment, which, in his (Mr. Douglas's) opinion, could do no harm whatever. If he for one moment thought the adoption of it would do harm to the Bill he should oppose it, but he was confident it would not, and that it would, on the contrary, remedy some defects in it, and would assist in lessening the hostility there was to the Bill by people outside. He was in no way inclined by any act of his own to put any obstacle in the way of the passing of the Bill, but he thought the Committee would be perfectly safe in accepting the amendment.

The MINISTER FOR WORKS said that if they were to make a railway on the level of a road they must first of all have ballast on which to place the sleepers, and they must make a line some inches above the level of the road. It was all very well to talk about a tramway which could be carried through the streets of a town on a level; but that was very different to making a railway over level country, as there must be box-drains for carrying off the surface water, and opposite to every gate where there was a level crossing there must be a certain amount of metal laid down to protect the line from the consequent wear and tear. But if the amendment of the hon. gentleman was carried it would enable every owner of land adjoining such a crossing to send in a claim for compensation.

Mr. KING said that the amendment of the hon. leader of the Opposition, if carried, would leave matters in this anomalous position—that whilst divisional boards had the power to cut down roads wherever they liked, if the Government wanted for railway purposes to cut down the level of a road the persons having property alongside such road would be entitled to claim compensation. He did not believe that a person could go two miles outside of Brisbane without coming to some cutting which had been made for road purposes through property, the owners of which had not received any compensation; and yet, according to the amendment of the leader of the Opposition, if the smallest alteration of the level of a road was caused by a railway, compensation would have to be made to the owners of property adjoining it. He thought that, the roads now being under the control of divisional boards, they and the Railway Department could work harmoniously together.

Mr. GRIFFITH said the hon. gentleman pointed out that the amendment, if carried, would cause an anomaly, as whilst divisional boards could now cut down the level of a road without giving compensation to the owners of land adjoining, the Government, according to the amendment, would have to pay compensation; but he would remind the hon. gentleman that after a corporation had once fixed the level of a street they could not cut it down below that level without exposing themselves to claims for compensation. According to what had been said by the Minister for Works, wherever a railway went through a street the level would be altered, but he did not think that the mere laying of the line was an alteration of the levels. But when the levels were really altered, he (Mr. Griffith) was anxious to do what he thought was only an act of justice to owners of property. But, as there seemed to be no chance of carrying his amendment in the form in which he had moved it, he would ask permission to withdraw it, for the purpose of substituting the following, limiting it to municipalities:—

> Provided also, that the owner of any land prejudicially affected by the alteration of the level of any road within any municipality, the level of which shall have been fixed under the provisions of the Local Government Act of 1878, shall be entitled to compensation, to be assessed under the provisions of the Railway Act of 1864, for all damage sustained by him by reason of such alteration.

First amendment, by permission, withdrawn; second amendment put and passed.

Mr. KING said there was another amendment he wished to propose. On a great many selections and pastoral freeholds the Roads Department had a right to reserve so many acres as a reserve for roads; and it was very desirable that the Railway Department should be able in the future to make use of those reservations in the same way as the Roads Department. The roads were the railways of the future; the time would come when the main roads of the colony would be railways, and the land reserved for road purposes ought also to be available for railway purposes. The amendment he proposed was intended simply to give the Government the power of resuming those lands reserved for road purposes, for the purpose of making railways. It was doubtful whether that power existed at the present time, but he would propose to add at the end of the clause the words "provided also that railways and tramways may be constructed on land which has been reserved for the construction of roads."

The PREMIER said they had the power of resuming land for making roads, and the Bill gave the power of making railways along the roads. The amendment, therefore, was not necessary.

Mr. KING said that, under the circumstances, he would withdraw his amendment.

Withdrawn accordingly.

Question—That the clause, as amended, stand part of the Bill—put and passed.

On clause 3—"Commissioner's powers and duties"—

Mr. GRIFFITH said that the powers asked for in this and two or three of the following clauses were already in the Railway Act. The Bill gave no new powers except for making railways on roads, and entry on them was already provided for in the Railway Act. The Commissioner could go anywhere he liked in the colony; so that the clause gave no new power whatever. In the same way the 4th section gave a power that was already provided for in the principal Act. It was the same with the 5th section, with the exception of the proviso that bodies corporate should have power to repair gas-works and water-works. The same remark applied to the 6th section—power to resume. There was ample power to resume land for railway purposes. The only difference there could be was that this Bill gave power to resume land for tramway purposes; otherwise there was nothing

new in the sections he had alluded to, and they were merely re-enactments.

Mr. MOREHEAD said the Government would be wise to consider the question of resuming freehold land for the purpose of making railways and tramways. Where certain areas had been reserved for roads, not in the direction that the railway was proposed to be made, but where many areas had been bought with roads round them, and where the land adjoining them had also been bought in many cases by the same owners—the consequence was that large areas were occupied by those holders which would never be used for roads unless they were cut up in small lots. Some clause might be introduced which would enable the Government, when they wished, to make a railway or tramway through those lands by means of exchange or otherwise. Power should be given to take so much land in lieu of the land that was now actually in possession of those purchasers and which had been intended for useless road purposes. He did not know whether he had made himself clear, but the hon. member for Maryborough (Mr. King) would understand what he meant. The hon. member knew of many cases where a large number of useless roads were down on the map which would probably never be used, but which might be made available for railway purposes by inserting a clause in the Bill. The roads around these blocks were useless now, but might become a serious difficulty in time to come when the lands were cut up in small lots and sold.

The MINISTER FOR WORKS said the hon. member for Maryborough (Mr. King) had already proposed a similar amendment.

Mr. MOREHEAD said his amendment was quite different. His (Mr. Morehead's) amendment did not propose the resumption of roads in the direction the railway was likely to go, but where there were large areas devoted to roads that probably never would be used, and roads that possibly no railway would ever go near. Those roads might very properly be exchanged for land lying in the direction the railway or tramway would go. The amendment of the hon. member for Maryborough, on the other hand, provided for the resumption of roads in the direction of the railway.

The MINISTER FOR LANDS said he should like to see the suggestion of the hon. member carried out. There were cases where large tracts of country had been disposed of in the expectation that a purchaser would be found for every 640-acre block, and accordingly a road had been surveyed. The land was often sold in lots of 20, 30, or 50 acres, and the roads still existed. It was a common practice to either exchange the roads or close them, or sell them to the adjacent landowners. He was not prepared to say that legislation in that direction was not necessary, but he believed it was not. It was a common practice in the Lands Office to make these exchanges. There were blocks of from 40 acres to 640 acres—which was the largest amount offered by auction—and in all cases there was a road provided. But it so happened that the expectations of the vendors were not always realised, because the land very often fell into the hands of one or two persons, and the consequence was that the roads became a dead-letter and were not required. He knew estates that had 3,000 acres or 4,000 acres of roads in them. No doubt, if the matter was not dealt with now it would have to be dealt with at no distant date. Such a provision would be useful, and would help to economise the making of railways. An arrangement might be come to not to close all those roads; apart from railways it would be necessary to leave certain main roads. The roads were useless at the present time, and only imposed upon the landholders the unnecessary expense of fencing.

Mr. MOREHEAD said the Minister for Lands had not exactly touched the class of cases he desired to lay before the Committee. The cases were those of large areas now held in the Western Railway Reserves in the shape of roads which were, in some instances, freehold property. They were, however, still roads, and might at any time be resumed. In some instances there were roads surrounding a square. There was no provision made for making a road diagonally through a purchase of 5,000 acres, without compensation; and what he wished to point out was the convenience which would attend an arrangement whereby the Government could make the diagonal road, upon condition that they surrendered their right to portions of road round the square.

Mr. SIMPSON thought that even now the hon. member had not made himself quite clear. The hon. member said that the roads were included in the freehold: whereas they were the property of the Crown. In the title-deeds of land which issued at the present time there were very often clauses reserving a certain amount of land for roads, which could be run in any direction the Crown liked. He believed the administrator of the Lands Department had sufficient power to take the roads, and it should be left to the self-interest of the freeholders to induce them to give the land necessary for railway purposes upon consideration of the roads being closed to them.

Clause, as amended, agreed to.

Clauses 3—"Commissioner's powers and duties;" 4—"Tolls and charges;" 5—"Powers of ingress and egress;" and 6—"Power to resume land"—agreed to as printed.

The MINISTER FOR WORKS moved that the following new clause stand clause 7 of the Bill:—

"Whenever any lands are resumed by the Commissioner for the purposes of this Act the railway arbitrator shall request the mayor of the municipality, or chairman of the division in which such lands are situated, to furnish him with the assessment-books of the municipality or division, as the case may be; and the amount named in the assessment-book for the year then last past as the value of the said lands shall be taken by the railway arbitrator as *prima facie* evidence of their value in awarding compensation for the same; and any mayor or chairman who refuses or neglects to furnish the assessment-books when required by the railway arbitrator shall be liable to a penalty not exceeding ten pounds (£10) for every such refusal or neglect, to be recovered in a summary way before two justices."

Mr. GROOM said that whatever effect the proposed new clause might have in the future, it might possibly be attended with injustice if put into operation at the present time. He said so for these reasons:—He knew for a fact that certain divisional boards had given their valuators instructions to value properties as low as possible for the present year, so that people might become gradually accustomed to the operation of the Act. He knew of one case, too, in which a selector actually appealed against an assessment, not because he considered it excessive, but because the absurd valuation depreciated the value of his property. Supposing that man's property lay in the route of some branch line now being agitated, he would be very likely to receive monstrously inadequate compensation on account of the low valuation. Four or five years hence the assessment might be fair.

The MINISTER FOR WORKS said there was no fear of an injustice being done in the cases alluded to by the hon. member for

Toowoomba. Although the assessment was to be taken as *primâ facie* evidence of value, the landowner could, if he considered the assessment low, give evidence. The provision would be the means of preventing exorbitant demands.

Mr. SIMPSON said he was acquainted with the property-owner referred to by the hon. member for Toowoomba. The individual in question did not object to the assessment from a desire to pay £2 when the board required him to pay only £1. There was, if the truth were known, a nice little scheme at the bottom of the matter. Some people were anxious to injure the Divisional Boards Act, and to furnish material for nice little paragraphs.

Mr. McLEAN said the proposed new clause went upon the assumption that no improvement would be made in the interval between the latest assessment and the construction of the railway. In that interval a man might have spent £10 per acre, but according to the proposed clause his compensation would be limited to the value set down in the assessment-book.

Mr. AMHURST pointed out that the amount set down in the assessment-book was to be regarded only as *primâ facie* evidence. There was nothing to prevent the landowner from objecting. But the assessment took place once a-year, and if the landowner rejected the assessment he would in many instances stand in the position of a person guilty of something akin to perjury.

The MINISTER FOR WORKS : If a man's land is assessed at too low a value, he has simply to prove it.

Mr. THOMPSON thought that great injustice might be done under the clause. The valuations were made by valuers, and they were the proper persons to give evidence. If the clause said that they were the parties who were to be examined as to the value of the land it would be a different matter. It was against all principle that a statement of theirs should be taken as *primâ facie* evidence without their being called upon to explain the circumstances under which it was made. If the valuers were examined it might be discovered that they had instructions to be lenient; or, on the other hand, that they were to assess at a fair value, so that the district might look well in the eyes of the Government and of everyone else.

Mr. ARCHER said he believed that the rates in many instances were unduly low this year owing to a mistaken idea of the working of the Divisional Boards Act. Many of the boards thought that they were going to get a seventy-fifth of the amount voted, instead of a subsidy of £2 for every £1 which they raised in rates. Now that they knew precisely how matters stood they would rate fairly, and he believed there would be no reason in future to say that the boards had been rating too low. There was not the slightest reason why the boards should not value the land at its full value. The Act gave them power to assess the annual value at 5 per cent. of the capital value, but they could make the rate as low as 4d. or as high as 1s. The boards would soon discover that they could raise the money they required without imposing high rates, which was to be done by putting a fair valuation on the land. He believed that if the Bill were put into operation to-morrow no injustice would be done. If a man's land was valued too low by the divisional board valuers he could protest against that valuation, and no doubt would get a fair value for the land taken from him.

Mr. GROOM said he was perfectly sure that the gentleman to whom he alluded was not the one alluded to by the hon. member for Dalby. The gentleman to whom he referred owned two large selections, and he was perfectly staggered when he received intimation to the effect that each of the selections was rated at 6s. only. Feeling that such a valuation would have the effect of depreciating the value of his property he protested against it. Probably three or four branch lines would be agreed to this year, and the value of land resumed would be fixed according to the assessments made by the divisional boards this year, and in that way great injustice might be done.

Mr. SIMPSON said he thought there was only one case in which an appeal had been made against an assessment because it was too low, and he believed that he referred to the same gentleman as the hon. member for Toowoomba did. His opinion was that the objection was not a *bonâ fide* one. No doubt, if the gentleman particularly desired it, the board would increase the assessed value of his land to £2 or £3 per acre. He would point out that the next assessment would be made in February, and it was not likely that many branch railways would be built before that time.

Mr. WELD-BLUNDELL said, if a body of men chose to lend themselves to the device of instructing the valuers to assess low so as to prove that the Divisional Boards Act was an unworkable one—for that was the reason which prompted the instruction in most cases—surely it would serve them right if they were bound by that assessment in case it was necessary that the land should be resumed. They should take the consequences. He sincerely trusted that, if a line of railway was to be made through any of the districts where such an instruction had been given to the valuers, the assessment would be looked on as rather more than *primâ facie* evidence, and that the owners of land would be awarded compensation according to it, or at a very slight increase on it.

Mr. GROOM said that the boards to which he referred had not assessed low for the purpose of proving that the Divisional Boards Act was unworkable, but because they knew that the people could not afford to pay a high rate. The majority of the members of the boards were in favour of the Act—at anyrate, they were in favour of local government.

The MINISTER FOR WORKS said that it did not follow because plans and specifications of railways were approved this session that the assessment of this year must be taken, but if it were the owners of land could protest against it. Although the Maryborough and Gympie, the Bundaberg, and the Stanthorpe lines had been approved of and were in course of construction, many of the claims for compensation were not yet settled.

Mr. GRIFFITH said that the value of the land must be what it was assessed at when the Commissioner for Railways gave notice that he intended to resume it. The clause was framed on the assumption that under the Divisional Boards Act it was the actual value of the land which was assessed, but that was not so except in exceptional cases. What was required to be assessed was the annual value, and the proportion or relation between the annual and the capital value was very fluctuating. The annual value might be 20 or 30 per cent. of the capital value; in some instances, he believed, it was as much as 50 per cent. The only case in which the capital value was taken was when the annual value was less than 5 per cent. of the capital value—that was only in a few rare cases where valuable property could not be let at a rental equal to 5 per cent. of the capital value—The clause would not meet ordinary cases. The assessment-book of the board merely showed the

annual value of the land, but the clause set forth that the amount named in the assessment-book was to be taken as the value of the land. The assessment once made remained until a new one was made. The hon. member for Blackall argued on the assumption that a new assessment would be made every year; but that was not so, as one assessment might stand for ten years. He was aware, and so were the Government, that in some instances instructions had been given to the assessors to value the land irrespective of improvements. In such a case the assessment would be perfectly useless as a valuation, or, if it were accepted as a valuation, great injustice would be done. The clause might do a great deal of harm, and he could not see how it could possibly do any good; he could not see what advantage was to be gained by it.

The ATTORNEY-GENERAL said it seemed to him that the objection raised by the leader of the Opposition was met by what was said by the hon. member for Mackay. The proprietor of land to be resumed was at perfect liberty to come forward and say that the assessment did not fairly represent the value of his land; and, if he had put any improvements on it after it was valued, he could claim for them in addition.

Mr. THOMPSON thought they would all concede that it was only fair that the valuer's books should be examined, but it was not reasonable to say that they should be taken as *primâ facie* evidence—which implied that they would be good evidence until contradicted. He suggested that the clause be amended by inserting, after the word "shall" in the second line as printed, the words "before making his award"—that was merely a verbal amendment—and after the words "may be," line 5, the words "and may be referred to by him for the purpose of enabling him to make his award, and shall be received by him in evidence for what they are worth." If the valuation were a good one it would be worth everything; but, if it was unfair, there was no reason why it should be *primâ facie* evidence. Let it be taken for what it was worth.

The MINISTER FOR WORKS said hon. members should consider for a moment the process by which the valuation was arrived at. When land was resumed by the Commissioner for Railways he sent a notice to the owner to make his claim. The owner sent it in, and a certain day was appointed to decide upon the justice of the claim. The owner was prepared with all the evidence that he could find to prove his demand, whilst the arbitrator was almost left entirely to his own resources. To arbitrate between the State and the owner he was to be assisted, according to the clause before the Committee, by a kind of evidence which he never had the opportunity of considering before. If the valuation arrived at by the local authorities was incorrect, it was the duty of the owner to prove that it was too low by the witnesses which every claimant had always to produce. He did not see any possible chance of injustice accruing to any individual, but he saw a great chance of fraud upon the State being prevented by the sending in, as hitherto, of extravagant demands, and the making of awards founded upon them.

Mr. THOMPSON said *primâ facie* evidence meant that it was to be taken as the evidence unless it was contradicted. Why should it be, if it was not reliable? It was extremely unfair that an unjust valuation should be taken as *primâ facie* evidence.

The MINISTER FOR WORKS said the Committee had heard about valuations which were too low, but he had been told of a particular division, not far from the place represented by the last speaker, where the valuations were equally as great in the other direction. For the sake of what had been spoken of as a remote contingency, viz., the disability of minors, they were to run the chance of the State being subjected to heavy claims as hitherto.

Mr. DICKSON said members all knew that the assessments made by the divisional boards this year had been extremely unreliable. They had been made under a novel system, and a large number of people had not paid regard to the assessment notice, under the belief that the basis of assessment would possibly be altered by legislation this session. He was fully convinced that, as a basis of the real value of the respective properties, the assessment was entirely unreliable; and he contended that a very grave injustice would be perpetrated if the railway arbitrator was bound to accept the evidence of the assessment as the basis of his award. He believed that for railway purposes land should be obtained as cheaply as possible, but he objected to such injustice being done as was possible under the clause. The clause would interfere injuriously with minors and absentees, and also with the interests of many people who were in the colony. The amendment of the member for Ipswich was decidedly fairer, and he hoped it would be accepted.

The ATTORNEY-GENERAL said the last speaker had repeated the objection made by the member for Ipswich, that the clause would probably injuriously affect the rights of minors. He could not see much force in the objection, because, in ninety-nine cases out of a hundred where minors were holders of land they had guardians or trustees to look after their interests. It had also been said that the clause would injuriously affect absentees; but he did not think they need be particularly careful about watching the rights of absentees: these people should look after their property themselves. He could not see the advantage that the amendment of the member for Ipswich was said to have over the clause. The strong objection to the assesment-books being taken as *primâ facie* evidence was, that in case there was no other testimony they would be taken as absolute evidence of the value of the land. That was no doubt right, but if the books were the only evidence the arbitrator would be bound to decide by them, whether they were to be taken as *primâ facie* evidence or as evidence for what they were worth. How, then, would the owner be in a better position?

Mr. FEEZ said the more he listened to the discussion on the amendment the more convinced he was that it was more against the State than in its favour. In the case of lands resumed for railway purposes by the Government the parties would, if the valuations by the divisional board were low, bring sufficient proof to show the Government that they were entitled to more. They were not deprived of the means of doing so by the clause; and, in all cases where large valuations were put on, the Government would be obliged, if the assessment-books were accepted as *primâ facie* evidence, to give an increased value for the land. He did not much care about protecting absentees, who should look after their own interests; but for minors he had more regard. He would, however, point out that if they had no protectors to guard their interests the probabilities were that their properties have been assessed high by the divisional board, and therefore they would be the gainers when compensation had to be awarded to them under the Bill. Looking at the clause in every way he thought it fair and equitable, and he could not see any thing in the amendment which would improve the Bill.

Mr. THOMPSON said he would propose the insertion of the words "before making an award" after the word "shall," in the second line.

Question put and passed.

Mr. THOMPSON said that as a further amendment he would move that after the words "as the case may be," in the fifth line, the following words be inserted :—

"Which may be referred to by him for the purpose of enabling him to make his award, and the entries therein shall be received by him as evidence for what they are worth."

Question put and negatived.

Question—That the new clause 7, as amended, be inserted—put.

The Committee divided :—

AYES, 23.

Messrs. Palmer, McIlwraith, Macrossan, Perkins, Beor, Norton, Low, Weld-Blundell, Persse, Stevens, Stevenson, Feez, Morehead, Cooper, Archer, Simpson, Hamilton, H. W. Palmer, Kingsford, Baynes, Swanwick, Davenport, and Amhurst.

NOES, 15.

Messrs. Garrick, Griffith, Dickson, McLean, Miles, Rutledge, Bailey, Thompson, Beattie, Grimes, Macfarlane, Kates, Fraser, Groom, and Horwitz.

Question, therefore, resolved in the affirmative.

The MINISTER FOR WORKS moved that the following new clause be inserted after the clause last passed :—

In estimating the amount of compensation to be paid for lands resumed or damage sustained under this Act, the railway arbitrator shall deduct from the estimated amount of compensation to be awarded by him a sum representing the increased value which the remainder of the land (if any) has acquired by the construction or proposed construction of the railway or tramway ; and the certified copy of every award made by the railway arbitrator shall be accompanied by a statutory declaration under the Oaths Act of 1867, in the form of the Schedule hereto annexed.

Mr. GRIFFITH said he really hoped the Minister for Works would not insist upon this clause. It would be asking both Houses of Parliament to step out of their way for the purpose of insulting a public officer. An action like that was beneath the dignity of Parliament, and Parliament had never before done such a thing.

The COLONIAL SECRETARY : It is a great pity they did not.

Mr. GRIFFITH said if the Government insisted no doubt they would have their way, but the Opposition were doing their duty by protesting. The first part of the clause was simply a re-enactment of what was contained in the Act of 1872, and, in substance, in the previous Act also. A provision did not become more forcible by re-enactment ; if it was the law it was the law, and no competent public officer would consider himself more bound to obey it by the fact that it was contained in two statutes. To ask a public officer occupying a high judicial position to make a solemn declaration every time he made an award, that he had done his duty, was the most insulting thing that could be conceived. In the new Kearney Constitution, in California, there was, he believed, a provision which required that every judge, before drawing his salary, should make a declaration that he had decided all the cases on the list. He was not sure whether the Constitution had been agreed to, but, if so, he was afraid there would be some speedy and nasty justice. If the judge had to choose between giving a hasty decision and losing his salary for a month it was highly probable that the suitors would suffer. That was the only analogous case to this that he could remember at the moment. Nothing could be more preposterous than such a provision, and it would do no good, because a conscientious man would not perform his duty any better through being reminded every time that he had got to do it. What was the use of constantly poking at him with, "Mind, you've got to make a solemn declaration that you are doing your duty !" It was merely a promissory oath, after all. The arbitrator was to declare that the award was a correct and lawful one ; it would be impossible to prove that the award was not correct or lawful. He was also asked to declare that in making his award he had taken certain circumstances into consideration, but he must have taken those circumstances into consideration in order to be enabled to arrive at a decision. If it were proposed to punish a man who made a false declaration there might be something in the proposition ; though a man who would be actuated only by fear of incurring the penalty of perjury would be quite unfit to be entrusted with the duties of an arbitrator. As it was proposed, the arbitrator was to declare to something which had passed within his own breast, and of which no one else could possibly know anything. However false the declaration might be, no proof, nor even evidence, could be given that it was false. The arbitrator himself was the only judge : such a question could not be submitted to a jury of twelve. Supposing a judge gave a decision that was appealed against, the fact that the court of appeal differed, as they might do, from him as to the correctness of his decision was no proof that the award of the arbitrator was not a correct and lawful one according to his lights. The reasons he had given appeared to him to be fatal to the adoption of this clause. It would not be a very creditable provision to have on the statute-book, and he hoped the Minister for Works would not insist upon its adoption.

The MINISTER FOR WORKS said the clause called upon the arbitrator to make a solemn declaration, not that he had not done his duty in every respect, but that he had not taken into account the increase in the value of the land owing to the construction of the railway, and had not deducted the amount of that increased value from the compensation which he had awarded. That was all the declaration was about. A clause in the Act of 1872 embodied this very principle but did not require the declaration, and he would ask the hon. gentleman whether that clause had been observed?

Mr. GRIFFITH : I have no reason to doubt it.

The MINISTER FOR WORKS said he had ; and every other Minister for Works who had done his duty had reason to doubt it. Unless the information he had received from the officers of the Railway Department was incorrect, the railway arbitrator himself, according to his interpretation of the Act, did not consider himself bound to take that into account. As to it being an insult to ask that officer to make a declaration, it was not considered an insult to ask every officer in the Civil Service to make such a declaration at the bottom of the O.H.M.S. telegraph forms.

Mr. GRIFFITH : That is a certificate, not a declaration.

The COLONIAL SECRETARY : A distinction without a difference.

Mr. GRIFFITH : There is a great difference between a certificate and a declaration made on oath before a justice of the peace.

The MINISTER FOR WORKS said he could not accept the suggestion of the hon. member for

North Brisbane. He was there to protect so far as he possibly could the interests of the State, and he wanted the railway arbitrator to recollect that he was bound to act in accordance with the 18th clause of the Act of 1872, which had never been carried out, and that he was bound to ascertain as fully as he could the value which accrued to the remainder of any land resumed for railway purposes by the construction of such railway. He did not believe, any more than the hon. gentleman himself believed, in having the same thing repeated over and over again in the statute-book, but this very proviso had been on the statute-book for eight years, and he was prepared to say it had not been acted upon.

Mr. ARCHER said he extremely regretted that the Minister for Works could not accept the suggestion of the hon. member for North Brisbane, as he had a great objection to having declarations put on the statute-book, inasmuch as they could always be evaded in one way or another. There was nothing which had more impressed him with that idea than a well-known case which had recently been inquired into of a vessel which had been lost. In that case the captain declared on his oath that the vessel and engines and everything were right, the chief engineer swore the same, and the first lieutenant also, and everyone signed the declaration. With regard to these awards, he believed that if a man merely put his name to such award and said that he acted in accordance with the clause in the Act it would be quite sufficient, as no man would sign his name unless he had done so; if he did, he would not be fit for his position. He considered that no good was done by having these declarations, but that they were often a temptation to commit perjury.

Mr. KING said the objection of the hon. member for North Brisbane to the clause was, that it would hurt the dignity of the railway arbitrator if he had obeyed the law; whilst the objection of the hon. member for Blackall to it was that it would be a temptation to commit perjury. But the great thing to be considered was whether such a clause would protect the public interest if it was inserted, and in his opinion it would. The insertion of such a clause would remind the railway arbitrator that Parliament was determined to see, as far as it could, that the country was protected against robbery. It would perpetually remind him that in every case that came before him he had a duty to perform to the country. For years there had been a system of valuation going on in the colonies which was most iniquitous, and yet in nearly every case the gentlemen appointed as valuators were gentlemen of high position. The valuations of lands on the Darling Downs under the Act of 1868 were incorrect; in New South Wales the same thing occurred; and under the Railway Act in this colony the valuations were equally incorrect. He had been told that the railway arbitrator did not take the same view of the particular clause in the Act which referred to assessing the value of lands resumed as the House had taken, and that in regard to the lands resumed for the Western Railway extension he had argued that, such land being used for sheep, the construction of a railway would not increase its value by enabling it to carry more sheep than if the railway was not made, and that, consequently, the land was not increased in value. Again, with regard to Toowong before the railway was made through it, the land was barren and ridgy waste. It was only used for grazing goats; yet awards were made by the arbitrator by which the Government had to pay enormous compensation. No person who knew anything about the value put upon lands resumed for railway purposes could help knowing that, whilst the remaining portion of a piece of land resumed was increased in value, the price paid for compensation for the portion taken was frequently more than the total value. He thought they could not take too much care to prevent such a state of things going on in future.

Mr. GRIFFITH said that the provision contained in the 18th section of the Act of 1872 was as distinct as possible; it said—

> "In determining the compensation to be paid for land taken from or damage sustained by the owners of or parties interested in any lands taken, used, or temporarily occupied for the purpose of any such railway, or injuriously affected by the execution thereof, the enhancement by such works or undertakings of the value of other lands of such persons respectively, or as regards such land so injuriously affected of the value thereof in any other respect than that in which such injury is sustained, shall be taken into consideration in reduction of the amount which would otherwise be awarded."

What was the use of saying that over again in this Bill in other words, unless it was the intention of the Minister for Works to repeal the clause he had just read? It had been said that the railway arbitrator had habitually disregarded the law in that respect; if so he should have been removed. But what were the grounds for saying so? The hon. member for Maryborough (Mr. King) referred to some case at Toowong, in 1874, which had been made a stalking-horse ever since against the railway arbitrator. He (Mr. Griffith) remembered the circumstances. It was about the valuation of some bit of land, and the arbitrator was called upon by the Commissioner —the present Premier was at the time Minister for Works—to state what his reasons were for making his award. The arbitrator said that in the performance of his duties he had taken into consideration various matters, and he considered that, as a judicial officer, he was not bound to answer the questions that were put to him by the Commissioner; but he would be very glad to furnish the evidence which had been taken. That was about June, 1874, and that was the grievance against the railway arbitrator. On that occasion that officer wrote a letter in which he declined to submit himself to the jurisdiction of the Commissioner for Railways, and he was right in so doing, as he was in the position of an independent judge. From that time there had been an accusation against the railway arbitrator that he had habitually disregarded the law. If what the Minister for Works wanted was to ascertain that the arbitrator in each case took into consideration the clause in the Act of 1872 before giving his award, that could be done by providing that he should give a separate finding on that point; but to tell him that he must make a declaration that he had done his duty would not make him do that duty any more. If they wanted to know whether the arbitrator did his duty, all that was necessary to do was to say that in every award made by him he should state separately the amount allowed for land taken, the amount allowed for injury sustained by the construction of the line, and the increased value, if any, given to land not resumed. In that case the Minister for Works would know to what extent allowance had been made, and if it was found that the arbitrator habitually disregarded that part of his duty, and that he made no allowance for land which had been enhanced in value by the construction of the railway, then let someone else be appointed. Instead of that it was proposed that on each occasion he should declare that he had done his duty. If details were required provision must be made accordingly, and he (Mr. Griffith) thought it would perhaps be desirable to accentuate that part of the arbitrator's duties. He thought that in some cases prices had been paid for land where the arbitrator might well

have told the claimant that he was a gainer by the railway being made.

Mr. FEEZ said that unfortunately experience told him that the tone of morality was not so high in the colony as it should be, and consequently, although it might be offensive to a gentleman of honour and who knew his duty to require from him a statutory declaration, it might be necessary to have such a provision in the case of others. If the questions were put separately, the object in view might be gained much better than by the introduction of the schedule. He should like to see that part of the suggestion of the hon. gentleman (Mr. Griffith) adopted.

The MINISTER FOR WORKS said the Toowong case, to which reference had been made, was not the only one where excessive compensation had been given. Every mile of land resumed on the railway to Ipswich had cost £2,460; and many other instances had occurred since that. The greatest portion of that land could not have been worth more than 30s. to £2 an acre, and yet its resumption had cost £130 an acre. The suggestion of the hon. member (Mr. Griffith) was exactly the thing he wanted. He wanted the railway arbitrator to be aware that he had a certain duty to perform, and was to perform it. His desire was not to multiply oaths, but to protect the State; and the only way to do that was to compel the arbitrator to do his duty by taking into account the increased value of the land upon which he was making his award.

Mr. SIMPSON said he did not even know the name of the railway arbitrator; but if he was the same gentleman who gave £116 an acre for the scrub land between Brisbane and Ipswich; £9 to £10 an acre for land at Warra, which cost 15s.; and £20 in other places for land which cost 10s., it seemed that the gentleman had not performed his duty, and that there were good grounds for appointing some other arbitrator who should perform his duties a little more to the benefit of the State. He was not imputing motives to the present arbitrator, but that gentleman appeared to have got into a particular groove, and it was not likely that he would easily get out of it. For some years he had given his awards in favour of individuals as against the State;—there could be no doubt of that. As to the suggestion of the hon. member for North Brisbane, he thought it a very good one indeed.

Mr. FRASER said the railway arbitrator was as likely to commit an error of judgment as any other gentleman, but he (Mr. Fraser) believed that in the discharge of his duties he had acted thoroughly conscientiously. It might be true in some cases that land through which a railway ran might be enhanced in value; but, on the other hand, valuable properties might be rendered comparatively valueless by it, in which case the owner was surely entitled to fair compensation. If all the facts were before hon. members it would be found that in many of the cases where exorbitant compensation appeared to have been given, it was only fair and equitable compensation for damage done to property.

On the motion of the MINISTER FOR WORKS, the proposed new clause was withdrawn.

Mr. GRIFFITH proposed the following new clause to follow clause 7 as passed :—

Every award by the railway arbitrator shall set forth separately—

1. The amount of damage found by him to be sustained by the owner or party interested in the land taken, used, or temporarily occupied for the purpose of the railway or tramway, or injuriously affected by the construction thereof

2. The amount by which the value of other land of such persons or party is enhanced by the construction of the railway or tramway.

3. The amount by which the value of the land injuriously affected is enhanced in other respects by such construction.

4. The net amount of compensation payable to such owner or party.

Question put and passed.

Clause 7 was passed, with the omission of the following introductory words :—"The gauge of every railway or tramway constructed under this Act shall be 3 feet 6 inches, and;" and the substitution of the words "every such" instead of "the said."

Mr. KING said that before they came to the next clause he wished to insert a new clause. In other countries where railways or tramways ran along roads, and were not fenced off, there was a limitation of the speed. For instance, the Wantage tramway, to which reference was made last night, was limited to ten miles an hour. He therefore proposed to move a clause restricting the speed on unfenced lines to ten miles an hour. Some members might think that too slow, but they would have the opportunity of expressing their opinion. Some limitation should be made; otherwise a train running at the rate of twenty or thirty miles an hour round a curve might come suddenly upon cattle or people travelling along the road with teams, and result in serious accidents. He would propose as a new clause to follow clause 7—

That no train or tram-car shall be run on any line of rail or tramway passing along any public road or street at a greater speed than ten miles per hour.

The MINISTER FOR WORKS said he had no objection to the insertion of the clause proposed—in fact, he had intended by regulation to prevent trains on such lines from running at a greater speed than ten miles an hour. In England the speed on tramways was restricted to eight or ten miles an hour—the maximum fixed was ten; and it was proved from evidence which he had quoted before, that practically that meant a maximum of fifteen or eighteen miles an hour. The witnesses examined before the committee of the House of Lords stated that there were no worse judges of speed than the drivers. Though many engines had indicators showing the speed, they were of such a delicate nature that they were always getting out of order. A maximum speed of ten miles an hour would be a very safe speed to adopt.

Mr. WELD-BLUNDELL said he quite agreed that the speed ought to be restricted; but he thought ten miles an hour was rather too fast, from what he had seen of trains running through towns. They did not run anything like so fast even in America, where they were not by any means particular as to how many people they killed. One line ran two or three miles through Chicago, and the speed was so slow that boys ran alongside and climbed on to the steps in front of the carriages. They certainly did not go faster than seven miles an hour. Further than that, there was a regulation in America providing that whenever a train passed through the streets there should be a bell constantly ringing. There was no other means of warning the public except by whistling, and that was infinitely more dangerous than nothing at all, because it frightened horses more than anything else. In America a bell had to be attached to the engine and kept ringing: they never used a whistle.

Mr. SIMPSON said the matter of the bell or the whistle might be left to the department, but the matter of speed ought to be dealt with now. He would propose a slight amendment on the amendment before the Committee, to the effect that trains should not run at more than eight miles an hour within a town and twelve miles outside. That was faster than the tramway ran

in Elizabeth street and Hunter street, Sydney. In the country the trains should be allowed to go a little faster than in the town.

Mr. LOW said that ten miles an hour was quite fast enough for the country, where very often cattle might be lying on the roadway.

The MINISTER FOR WORKS said the speed allowed was different in different countries; but the general speed in England was eight or ten miles an hour. The manager of the Cassel Tramway Company, who was examined on the subject, said they used steam cars on streets a little over 30 feet wide, and were allowed to run 12 kilometres inside and 14 or 15 kilometres outside the town. A gentleman named Small, of great experience in America, but at the time of his examination managing the London tramways, said the maximum speed allowed by law in America was seven miles an hour. In answer to the question whether it was the same in town and country, he said the speed was generally faster in the country; and on being asked what was the maximum rate, he replied ten miles an hour. That speed, of course, was intended for the country, but he (Mr. Macrossan) thought ten miles an hour as the maximum would not be too much.

Mr. FEEZ said tramways should not go more than three or four miles an hour in town, but outside they might go at the rate of ten miles an hour. The speed inside would be regulated by circumstances.

Mr. GRIFFITH said that any neglect on this point would very soon forcibly bring the matter under the notice of the Government by the claims that would be made for compensation for accidents. When he (Mr. Griffith) was in the Works Office he was informed that practically the speed could not be regulated except by making engines which would not travel beyond a certain speed. The drivers went slow for a certain time, but sooner or later they were sure to put on speed just to see how fast they could go. The best way to regulate the speed was by the size of the driving-wheels, and that was the only certain way. The question of compensation for injuries was a very serious one in connection with running the trains on public roads.

Mr. NORTON said there was a self-acting shut-off brake used in Paris which prevented the tram-cars going beyond ten miles an hour. He had an extract from the *Daily Telegraph* on the subject, which said—

"The machine, it is said, is fitted with all the arrangements prescribed by the Board of Trade regulations, including a self-acting shut-off brake, which controls the speed within a certain fixed limit, so that it becomes impossible for the driver to propel it more swiftly than is permitted by authority."

The Cassel Tramway Co., which used Merryweather's steam motors, ran their cars at the rate of eight miles in the town, and about ten miles outside.

Mr. MACFARLANE thought ten miles an hour too great a maximum speed, and that if it were understood that the drivers were to make up for the time lost by stoppages, eight miles an hour would be quite sufficient.

The MINISTER FOR WORKS would remind hon. members that the old English coaches used to run ten miles an hour upon macadamized roads.

New clause put and passed.

Clauses 8—"Buildings may be erected"; 9—"Repairs to drains"; and 10—"Short title"; and preamble—put and passed.

Bill reported with amendments; report adopted; and the third reading made an Order of the Day for to-morrow.

MAIL CONTRACT.

Mr. GRIFFITH said he desired, before the next Order of the Day was called on, to say something in reference to an announcement made in the House by the Premier yesterday afternoon when he was unavoidably absent. He did not arrive at the House that afternoon until the House was in committee upon the Railways Bill, and he now took the first opportunity of making a statement in reference to the subject of the Premier's announcement of yesterday afternoon. He felt bound to make this statement at the earliest possible opportunity. Yesterday afternoon the Premier announced that—

"In order to carry out the wishes of the majority of the Assembly, and as a step towards sustaining what he considered to be the commercial honour of the country, he had taken certain steps with regard to that contract, with regard to which fuller information would be given in the course of a few days. At the present stage he might state that he had telegraphed to the agents of the British-India Company, intimating that the Government had accepted their contract subject to certain modifications."

The House was not informed of the details of some of these modifications, but one, according to the Premier, was—

"The substitution for clause 32, 'This agreement shall not be binding unless it shall, within three calendar months from the date hereof, be approved by a resolution of the House of Assembly for the colony of Queensland,' of the words, 'This agreement shall be binding unless it shall before the 6th day of October next be disapproved of by resolution of the House of Assembly.' The telegram he had sent conveyed the intention of the Government to conclude the contract as amended."

He took that to be a statement of the intention of the Government to conclude the contract without getting the assent of Parliament. Now, under the circumstances of the case—to which he need not refer in detail, as they were perfectly within the recollection of every hon. member—he thought it advisable to say something in the matter. The Premier said he had taken this step "towards sustaining what he considered to be the commercial honour of the country." Now, the contract was made subject to this condition—

"This agreement shall not be binding unless it shall within three calendar months from the date hereof be approved by a resolution of the House of Assembly for the colony of Queensland."

How was the commercial honour of the country affected if that condition did not happen? How was the commercial honour of the country affected by the non-passage of such a resolution any more than by the negativing of such a resolution? To talk, under such circumstances, of the commercial honour of the country being affected was simply ridiculous. If anything were affected it was the personal dignity of the Premier. The making of a contract of this kind without the sanction of Parliament might involve the commercial honour of the country, but in a different way to that in which the Premier suggested. For his own part, he was anxious that the commercial honour of the country should be saved, and he therefore thought it right that he should take advantage of the earliest opportunity to point out what was the admitted law—that the Government could not bind the country, without the sanction of an Act of Parliament, to any such contract, except subject to the voting by Parliament of the necessary funds to perform the contract. If the contract were made without the ratification of Parliament, it was made subject to the condition that the House should from time to time vote the necessary funds for carrying it out. Under the circumstances of the case—to which he would not farther advert—he desired to say this: that they—and he spoke of the party on that side of the House—would not consider that the colony was bound by a contract so made any far-

ther than they were bound by law. It was only right to say that, in order that the contractors might know perfectly what they were doing. It would not be right to keep such a determination as that in their breasts. They did not consider that the country would be bound by such a contract—and if it were necessary they would act upon that assumption. That in saying this he was doing no more than asserting an intention to obey the law as it was, need scarcely be said. He still trusted, however, that the Government would not pursue the course indicated, because, for the reasons he had stated, it might tend to injuriously affect the colony, in many ways, entirely irrespective of the terms of the contract itself. He would also remind them of what had occurred in two of the neighbouring colonies upon occasions when Governments had sought to bind the country to their executive authority. Both in New South Wales and in Victoria the question had arisen whether the Government ought to be allowed, and whether the Governor ought to take the advice of Ministers advising him, to expend money or to incur expenditure without the sanction of both Houses of Parliament. In both instances the decision of the Imperial authorities was, that under no circumstances was the representative of Her Majesty justified in acting upon the advice of Ministers tendered to him for any such purpose. He thought it right to refer to those matters because the precedents established upon those occasions were well considered, the decisions were after a great deal of correspondence, and the respective duties of the Government and of the Governor under such circumstances were very clearly pointed out. He had nothing more to say; but, in conclusion, he would say that he thought it the duty of the Government to see that the contractors fully understood the position of the contract before they were allowed to accept it in its altered form. He moved that the House do now adjourn.

The PREMIER said he took the meaning of what the leader of the Opposition had said to be that those who objected to the contract would, if they had the power, give the contractors no other privileges than those to which they were entitled by law. The hon. gentleman need not have warned the Government as he did to make the contractors aware of that fact;—the contractors, no doubt, were perfectly well able to take care of themselves. He had thought it his duty to explain to the contractors the position in which they would hold the contract. If they accepted the terms proposed by the Government, they would hold it on exactly the same conditions as postal contracts and other contracts extending for years beyond the life of the Parliament under which they were made, were made in England. It was not the custom in England, either with postal or any other contracts extending beyond a certain term of years or beyond the life of the Parliament which made them, to submit them for the approval of Parliament; but the custom was to lay them on the table of the House, and if they were not dissented from by a certain time, it was understood that they were assented to. That was the custom of the House of Commons, and a very good custom it was too. He did not recede from the position he had taken up as to the honour of the country being bound in the contract. One of the conditions in the contract was that before it was ratified it should receive the sanction of Parliament; and he considered that under anything but extraordinary circumstances it would have received that sanction. At the present time there were a majority in the House—an absolute majority of the House—who were perfectly prepared to record their votes in favour of the contract, and it was only through the extraordinary means adopted by the Opposition that they had been prevented from doing so. They could get the sanction of Parliament in a little more indirect way, but in a way which was quite consistent with the practice of the House of Commons, and that was to give Parliament an opportunity of dissenting from the contract. According to the practice of the Imperial Parliament the contract would have received the full sanction of Parliament if a majority of the House did not dissent from it before the 5th of October next. That position the contractors would thoroughly understand before they concluded the contract. The precedents on which the Government had acted were fully laid down in "Todd," and when the matter came forward, on a motion of want of confidence, or on any other motion which the hon. member chose to submit to the House, the Government would be perfectly prepared to support their action. However, the hon. gentleman could rest perfectly satisfied that the Government had not left it to the Opposition to let the contractors know the position they were in. The contractors would go into the contract with their eyes open. He knew from the precedents of the House, and the precedents of the House of Commons, that that contract would be one which the honour of the country would have to sustain should a majority of the House not be able to dissent from it before the 5th of October.

Mr. GRIFFITH said he had only a word or two to say—he was not going to discuss the matter any further at present. The Premier said that the contractors would be in exactly the same position as any other postal contractor. In law possibly they would be—whatever rights the law gave them of course they would have; but the circumstances of the case made it quite different from cases of ordinary postal contracts; therefore, it might be considered right to confine the contractors strictly to their legal rights: that was not done in the case of ordinary postal contracts. Whether the honour of the country was bound by such a contract was a matter upon which the Parliament for the time being would have to determine. He had taken the opportunity of saying that the party on his side of the House did not consider the honour of the country bound by it under the circumstances, and they thought it only right that the contractors should have fair notice of all the circumstances of the case. He wished to correct the Premier with respect to the practice in England. The hon. gentleman said that in England postal contracts were laid on the table of the House, and if not dissented from were taken to be ratified. The practice was stated in "May," page 588, as follows:—

> "It is provided by Standing Orders that in every contract for packet and telegraphic services beyond sea, a condition should be inserted that the contract shall not be binding until it has been approved by a resolution of the House. Every such contract is to be laid upon the table, if Parliament be sitting or otherwise, within fourteen days after it assembles, with a copy of a Treasury minute setting forth the grounds upon which the contract was authorised. No such contract is to be confirmed, nor power given to the Government to enter into agreements by which obligations at the public charge are undertaken, by any private Act. All such contracts are accordingly approved by resolutions of the House."

Therefore, a standing order of the House of Commons provided that such contracts should be ratified by resolution of the House, and that standing order was binding on successive Parliaments. The House of Commons had by its standing orders bound or pledged its honour that after approving of such a contract it would from year to year vote the necessary supplies to carry it out. That was the distinction between the practice in England and the practice here. He desired to say nothing more, and, with the permission of the House, would withdraw his motion.

Mr. AMHURST said that the Government would be supported in their action by a majority of the House. He protested against the idea of a minority being allowed to govern the country by taking advantage of sidewinds or by stonewalling.

Motion withdrawn.

CENSUS BILL—COMMITTEE.

On the motion of the COLONIAL SECRETARY, the House went into Committee to consider this Bill in detail.

Preamble postponed.

Clause 1—"Date on which census is to be taken in the year 1881"—put and passed.

Clause 2—"Census to be taken in the manner prescribed by the Act 39 Vic. No. 2"—

The COLONIAL SECRETARY moved that the following proviso be added to the clause :—

"Provided that it shall be lawful for the Governor in Council to make such alterations in Schedule A of the said Act as may be necessary to assimilate the form of the said Schedule to that of the Householders' Schedule to be adopted for the Census of the United Kingdom."

He said that the Bill had been introduced in consequence of the receipt of a dispatch from the late Secretary of State for the Colonies requesting that the process of taking the census should be assimilated to that of England.

Mr. DOUGLAS thought it extremely desirable to take a census of children of school-going age. In the outlying districts there was no correct data from which to determine the exact number of children. If it could be possibly ascertained, it would be just as well to work it up in the census.

The COLONIAL SECRETARY thought the easiest way of understanding the matter would be to read the despatch received from the Secretary of State for the Colonies. The form in which it was proposed to have the census taken in the United Kingdom had not yet arrived, but the object of the amendment was to assimilate the census here to that of the United Kingdom. That they intended to carry out, and nothing else.

Question—That the words proposed to be added be so added—put and passed.

Clause, as amended, passed.

Clause 3—"Act to be read with the Quinquennial Census Act of 1875"—passed as printed

Preamble passed as printed.

On the motion of the COLONIAL SECRETARY, the Chairman reported the Bill with amendments; the report was adopted; and the third reading made an Order of the Day for to-morrow.

ADJOURNMENT.

The PREMIER moved that the House do now adjourn.

Mr. GRIFFITH said several members on his side would like to know whether the Government proposed to adjourn for the opening of the Roma Railway next week, and what arrangements would be made for getting to Roma?

The PREMIER said he would let the House know definitely to-morrow what arrangements would be made with regard to the opening of the Roma Railway. They were waiting for some information from His Excellency the Governor. A train would probably start from Toowoomba on Wednesday evening. They proposed sitting on Monday and Tuesday, and would probably then adjourn until the Monday following.

Mr. GROOM said he had been requested to ask whether the Government would adjourn over the Toowoomba Show. Did he understand the Premier to say that he intended to adjourn over Wednesday next?

The PREMIER : Yes.

Question put and passed; and the House adjourned at five minutes to 10 o'clock.