

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 30 SEPTEMBER 1885

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LEGISLATIVE COUNCIL.

Wednesday, 30 September, 1885.

Railway from Rockhampton to Emu Park.—Isis Branch
Railway.—Message from the Legislative Assembly.—
Beer Duty Bill—third reading.—Elections Bill—
second reading.

The PRESIDENT took the chair at 4 o'clock.

RAILWAY FROM ROCKHAMPTON TO EMU PARK.

The POSTMASTER-GENERAL (Hon. T.
Macdonald-Paterson) moved—

That the Report of the Select Committee on pro-
posed Railway from Rockhampton to Emu Park, *via*
Lake's Creek, be now adopted.

Question put and passed.

The POSTMASTER-GENERAL moved—

1. That this House approves of the plan, section,
and book of reference of the proposed Railway from

Rockhampton to Emu Park, *via* Lake's Creek, as received by message from the Legislative Assembly on the 9th September.

2. That such approval be notified to the Legislative Assembly by message in the usual form.

Question put and passed.

ISIS BRANCH RAILWAY.

The POSTMASTER-GENERAL moved—

That the report of the Select Committee on the proposed Branch Railway be now adopted.

Question put and passed.

The POSTMASTER-GENERAL moved—

1. That this House approves of the plan, section, and book of reference of the proposed Isis Branch Railway, as received from the Legislative Assembly by message on the 27th August last.

2. That such approval be notified to the Legislative Assembly by message in the usual form.

Question put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The PRESIDENT announced the receipt of a message from the Legislative Assembly, forwarding the Victoria Bridge Temporary Closure Bill.

On the motion of the POSTMASTER-GENERAL, the Bill was read a first time, ordered to be printed, and the second reading made an Order of the Day for to-morrow.

BEER DUTY BILL—THIRD READING.

On the motion of the POSTMASTER-GENERAL, this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly by message in the usual form.

ELECTIONS BILL—SECOND READING.

The POSTMASTER-GENERAL said: Hon. gentlemen,—In moving the second reading of this Bill I do not propose to take up any time whatever in attempting to give even a *résumé* of its provisions. The law relating to parliamentary elections has been for some time in such a state that it requires amendment with regard to the conducting of elections, voting, registration, and so forth. It has been for some time felt that the consolidation and amendment of all the laws relating to parliamentary elections was very desirable indeed, and the Bill has that object in view. There are some matters that I would like to refer to, but on reflection, and upon analysing them, I have come to the conclusion that they would better come within the scope of discussion in committee, because, as hon. gentlemen are aware, this Bill is practically a consolidation of the laws relating to parliamentary elections, with some amendments of no great importance; but still, such amendments as are in the Bill are very much approved of by all sections of men. I will merely draw your attention to the departments of the Bill, which include qualifications and disqualifications of electors, preparation of electoral rolls, the duties of returning officers and presiding officers, declaration of results, and the return of writs of election, etc. Part VI. relates to corrupt and illegal practices. This is something new, however, in this colony, and, in a word, that section of the Bill includes the same laws as were introduced into England in the year 1883. Then we have the supplementary and general provisions; and the last part—Part VIII.—includes the temporary provisions of the Bill. There are certain portions of this Bill which are not in any of those Acts which are proposed to be repealed, and to these little changes I shall draw the attention of hon. gentlemen when we get into committee. I will not now say anything further, but merely move that the Bill be read a second time.

The Hon. T. L. MURRAY-PRIOR said: Hon. gentlemen,—I do not care that the second

reading of a Bill of this sort should pass without discussion; but I agree with the Postmaster-General that there are a great many clauses that can be more properly discussed when we get into committee. We know that the Bill is requisite, and therefore there can be no objection to its being read a second time now; but in committee we will be able to go more fully into the subject.

The Hon. W. D. BOX said: I have no doubt that this is a very valuable and desirable codification of the laws relating to elections in this country; but there is one clause in the Bill to which I should like to call particular attention, because, to my mind, if it becomes law, it will entirely do away with the secrecy of the ballot. The present fashion is for an elector to go into the room, and if he is personally known to the returning officer he gets his ballot-paper at once, but, if not, he has to prove to the returning officer that he is the person representing a certain number on the roll, and he then gets the ballot-paper. This is initiated by the returning officer, and the elector then goes to the booth and votes. The existing Act says that ballot-papers shall have the names of the candidates, and nothing else, printed on them; but clause 71 says:—

“When an elector has satisfied a presiding officer that he is entitled to vote at the election, the presiding officer shall deliver to him a ballot-paper.”

“Before delivery of the ballot-paper to the elector, the presiding officer shall mark the same on the face thereof with his initials in ink or pencil, and shall also write upon the back of the left-hand upper corner of the ballot-paper in ink or pencil the number set against the name of the elector in the electoral roll.”

“The presiding officer shall then, and before delivery of the ballot-paper to the elector, fold down the corner of the paper so as to entirely conceal the number so written, and shall securely fasten the fold with gum or otherwise in such a manner that the number cannot be discovered without unfastening the fold.”

Well, gentlemen, there is evidence at once on the face of the paper for whom the elector voted. Those papers are not destroyed, but they are carefully transmitted to the proper authorities, and are subject to examination before the Elections and Qualifications Committee in case of a disputed election. If that clause is retained in its present shape it appears to me that the whole of the secrecy of the ballot is utterly destroyed. The present fashion in case of disputed elections is the examination of the ballot-papers by the Elections and Qualifications Committee. I do not know whether they sit in open court, but I imagine that the five or six gentlemen who constitute the committee can, if they choose to take the trouble, learn how every single man voted at any particular election that comes under their notice. If, as I hope, at some future time the Elections and Qualifications Committee ceases to exist and disputed elections are referred to the decision of the Supreme Court of Queensland, not nearly so much harm will arise, but if the proposed system is adopted, as I have already said, the ballot-paper will show on its face how an elector voted. I hope that the Postmaster-General will be able to disabuse my mind that there is any effort on the part of the Bill to destroy the secrecy of the ballot, but if I am right in my interpretation of the clause I have drawn attention to, that secrecy will surely be violated.

The Hon. A. C. GREGORY: I think it is very desirable that we should have some amendment in our electoral law; and this Bill seems, as a whole, to be a very fair instalment of what has been asked for. I will just refer to one or two points that should be called attention to in order that they may be considered between this and the time for going into committee. The first thing that strikes me as being a point that should to some extent be amended is in clause 61, which

says that the ballot shall not close until 6 o'clock. Anyone who has had the duty of returning officer to perform will be well aware that after 4 o'clock the electors are not altogether so quiet and orderly as they are during the earlier periods of the day; and I think that it would be better to substitute 4 o'clock as the time at which the ballot shall close, leaving it in the power of the Government to extend the time to 6 o'clock where that might be considered necessary. I merely mention what my views are, so that we may be able to consider them when the time arrives. In clause 82 I think there is some little mistake. It provides that the returning officer shall give his casting vote, in the case of the votes being equal, but only if he is himself registered as an elector of the electoral district. Now, no provision is made in the Bill, that I can find, for the case where the returning officer is not a registered voter. That seems to be an omission which can easily be rectified. Something has been said with regard to the disclosure of the ballot, in consequence of the numbers being placed on the voting-papers. I do not myself see the provision for the eventual destruction of the ballot-papers, but I think it would be a very excellent thing if some provision were made by which the ballot-papers should be kept under seal for a given length of time—so long that they would not be required by any elections committee, or any other court of revision, and that they then should be burnt before some responsible parties and record thereof made in the same manner as the ballot-papers under the Local Government Act are dealt with. Then some difficulty has arisen in the minds of hon. members that I have conversed with in regard to the possibility of letters being forwarded to the registrar and never being placed upon record. I think some provision might be made by which the papers which are provided for in the latter part of the Act with regard to giving notice to the registrar should be registered without any additional charge—that they should go through the post and be registered letters by the Act, for which the registrar should give an acknowledgment to the post-office, so that in the event of any letter reaching or not reaching its destination there would be some evidence either in support of the affirmation that the letter had been sent or to protect the registrar in the event of its not being received. Those are matters which have just struck me in running hurriedly over the Bill, and I mention them now, because it is more convenient to give some sort of notice of what amendments are likely to be brought forward.

The Hon. W. FORREST: I think there is something in the objection raised by the Hon. Mr. Box, but perhaps not quite so much as he imagines. If we look carefully at the clause we find that the number is to be put on the back of the voting-paper, and as far as I have been able to grasp the meaning of the Bill this mark on the back of the voting-paper is actually necessary to find out cases of personation, and I should imagine it would not be used under any other conditions. No examination of the papers ought to be allowed unless some objection is raised as to the validity of a vote. When it comes to an examination of the ballot-papers by the Elections and Qualifications Committee, it would be quite possible, as the Bill stands now, to do what the Hon. Mr. Box says—to find out how every man voted. The Bill should certainly be amended so as not to allow any papers to be examined except such as are actually disputed.

The Hon. A. J. THYNNE: I think this proposal to number the ballot-papers will have an effect which will be very serious indeed in the conduct of elections. In the case of disputed elections, it may open up the election to an

extent to which elections have never yet been opened up since election by ballot has been resorted to. I do not think myself that that is a bad thing to do, because up to the present time we have had a great many complaints about double voting, personation, and the voting for men who are dead or absent. There is no doubt that many men are deterred from standing as candidates for an election by the belief that unless they or their agents resort to some such practices as those I have mentioned their opponents will do so, and the probability is that they will be defeated. Honourable men will not descend to such a depth as to allow themselves or their representatives to take part in the transactions I allude to; but, on the other hand, men who are not very particular will not hesitate to do so, and in fact even in this colony there are men who have been heard to boast of their cleverness in being able to induce double voting and personation at elections. Anything that tends to check that will be a good thing; and if a candidate knows that his election, though at first apparently successful, is liable to be upset by a strict scrutiny of the ballot-papers, the result will be very good. If an election is questioned, the Elections Tribunal have to examine the conduct of the election all through; they will naturally overhaul all the ballot-papers and ascertain the names or numbers of the electors on whose account more than one vote has been recorded. If two or three votes have been recorded for one candidate in the name of one elector, they will be obliged to deduct all but one of those votes from the candidate for whom they are given; and if votes are given in the names of persons proved to be absent or dead the tribunal will have to deduct those votes also from the candidate for whom they are recorded. It will enable the tribunal to reopen the whole of the election and scrutinise every vote. The question is whether that is a good thing or not; I am inclined to think that it is. With regard to the secrecy of the ballot, there may possibly be a feeling in the minds of some electors that the way they vote may become known in the event of a disputed election; but in this colony we need not be so very much afraid of the scrutiny of ballot-papers in disputed elections. We ought not to give an opportunity for the examination of ballot-papers in ordinary cases; but where a grave charge of corruption or false voting is under consideration, it will be better to take the lesser evil, and let the Elections Tribunal know how the voter did vote, than to encourage corruption. We have not yet reached, and I hope we never shall reach, the state on account of which voting by ballot was specially introduced in the old country; we have no large and powerful landlords oppressing their tenants and servants; and I think there are very few men in the colony who have any fear or need be ashamed of letting the way in which they vote become known. At the same time we should preserve as far as possible the secrecy of the ballot unless some urgent occasion arises for investigation, and I am therefore inclined to think that the numbering of the ballot-papers is an improvement. With regard to what the Hon. Mr. Gregory stated respecting the returning officer not being allowed to give a casting vote unless registered as an elector, it is an important objection and ought to be removed. There are two ways of removing the restriction on the appointment of the returning officer; one is to provide that he shall have a casting vote, and the other to provide that he must be a person whose name is on the roll. It might be provided for in the 44th section.

Question put and passed; and the committal of the Bill made an Order of the Day for to-morrow.

The House adjourned at twenty-four minutes to 5 o'clock.