Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 7 OCTOBER 1885

LEGISLATIVE COUNCIL.

Wednesday, 7 October, 1885.

Settled Land Bill. — Message from the Legislative Assembly. — Settled Land Bill.—Victoria Bridge Closure Bill—committee. — Elections Bill — committee.

The PRESIDENT took the chair at 4 o'clock.

SETTLED LAND BILL.

The POSTMASTER-GENERAL presented "A Bill for facilitating Sales, Leases, and other dispositions of Settled Land, and for promoting the execution of Improvements thereon," and moved that it be read a first time.

Question put and passed.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The PRESIDENT announced the receipt of a message from the Legislative Assembly, forwarding the Probate Act of 1867 Amendment Bill.

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

SETTLED LAND BILL.

The POSTMASTER-GENERAL said: With reference to the Bill of which I moved the first reading just now—"A Bill for facilitating Sales, Leases, and other dispositions of Settled Lands, and for promoting the execution of Improvements thereon"—I beg now to move that the Bill be printed.

Question put and passed.

The POSTMASTER-GENERAL said: In order to give hon. gentlemen a few days to look through this Bill carefully, I do not propose to take the second reading to-morrow. I think it would be better to move that the second reading be taken on Tuesday next, as I intend to move to-morrow that this House, in future, meet on Tuesdays for the transaction of business.

The PRESIDENT: Until that motion is carried, I cannot put the motion that the second reading of the Bill be made an Order of the Day for Tuesday.

The POSTMASTER-GENERAL: Then I will move that the second reading of the Bill stand an Order of the Day for the next sitting day of the House after to-morrow.

Question put and passed.

VICTORIA BRIDGE CLOSURE BILL—COMMITTEE.

On the motion of the POSTMASTER-GENERAL, the President left the chair, and the House went into Committee to consider this Bill.

Preamble postponed.

On clause 1, as follows :—

"Notwithstanding any provisions of the Brisbane Bridge Act, or any other Act or law to the contrary, it shall be lawful for Her Majesty, or for the said municipal council, or for any other corporation or person charged for the time being with the control or management of the said Victoria Bridge, to keep the said bridge closed."

The HON. F. T. GREGORY said, before the clause was passed by the Committee, he would draw attention to a question that would eventually arise in connection with the title of the Bill. In the clause under consideration the Brisbane Bridge Act was referred to, and the purport of that Bill was to keep the bridge closed. Now, he thought that was a slip, because it was not the intention of the Bill to keep the bridge closed, but to simply close it for the passage of vessels through the swing. He did not wish to cavil at mere verbiage, but he thought the term used was sufficiently astray from the meaning of the Bill to justify him in calling the attention of the Committee to it. He would therefore move that the clause be amended by inserting in the last line, between the words "the" and "said," the words "the swing portion of the." He thought hon. gentlemen would see the purport of the amendment, and if it was carried several other amendments of a similar character would follow.

Amendment put and passed.

The HON. A. J. THYNNE said he would suggest for the consideration of the Postmaster-General whether there ought not to be some provision made for keeping the machinery of the swing portion of the bridge properly in order—oiling it, and so forth—because, when the Act terminated, at the end of five years—if it was really intended that the bridge should be opened—the corporation would have a very good excuse for not opening it. They would be able to contend that the machinery, from long disuse, had become rusty and unworkable, and that it would be a physical impossibility to open the bridge.

The HON. E. B. FORREST: A good job too.

The HON. A. J. THYNNE said he did not know whether the Government were in earnest in wishing that the bridge should be only temporarily closed, or whether it was intended that the closure should in fact be a permanent one.

The POSTMASTER-GENERAL said the suggestion of the hon. member who had last spoken was outside the scope of the Bill.

Clause, as amended, put and passed.

On clause 2, as follows :—

"No action, suit, indictment, information, or other proceeding, shall be commenced, presented, prosecuted, or maintained against the said municipal council, or against any other corporation or person, for or in respect of the erecting or maintaining of the said bridge, or the closure thereof, or the obstruction of the navigation of the River Brisbane thereby, or for or in respect of any damages, loss, or expenses occasioned or alleged to be occasioned by reason of such erecting, maintaining, closure, or obstruction, or in anywise whatsoever arising therefrom. Provided that nothing herein contained shall affect the right of any person to recover damages in any action commenced against the said municipal council before the commencement of this Act."

The HON. F. T. GREGORY said it would appear that in clause 2 it would be necessary to make a slight alteration, because in line 8 the words "maintaining, closure, or obstruction" were used. There was evidently a mistake there, although he was not sure it was in any way contradictory to the Bill. To begin with, he would move, on the 5th line, that the words "of the swing portion" be inserted between the words "closure" and "thereof."

Amendment agreed to.

The HON. A. C. GREGORY said he thought it was well just again to refer to the clause which provided for the closing of the bridge and point out that it could not infringe upon the rights and privileges of any person in any way whatever. The Act which provided more particularly for the closure of the bridge was the Act 4 William IV. No. 11. Clause 30 was the provision that dealt with the subject, and, as it was short, he would read it. The Act was in force before any lands were purchased on the banks of the Brisbane River, and consequently all purchases were made subject to the operation of the Act. The clause read as follows :—

"And be it further enacted that whenever it shall appear expedient to the Governor of the said colony to erect any bridge over or across any river or water or arm or branch of the sea either navigable or not it shall not be lawful for any person or persons to sustain or to commence any suit or any proceedings at law grounded upon any damages loss or expenses occasioned or alleged to be occasioned by reason of the erection of any such bridge as aforesaid."

The consequence was that when the Brisbane Bridge Act was passed, requiring that the corporation of Brisbane should put a swing into their bridge, any damage which might have arisen from their not maintaining that swing would not be a question of damages to be recovered by the occupiers of land, but simply a question of a breach of the law that would have to be settled between the Government and the corporation. No doubt the Government could have proceeded against the corporation for a failure to perform the conditions of the Act under which they were permitted to erect the bridge; but the Act would certainly give no person any right to claim damages in consequence of any obstruction which that bridge might have caused. That touched the question that was really at issue—whether they were infringing upon the rights of persons who had holdings beyond the bridge. He thought it was quite conclusive that no person's legal rights would be affected or prejudiced by the passing of the Bill, or that particular clause which provided for the closure of the bridge.

The HON. SIR A. H. PALMER said he confessed that if he had not heard the explanation given on the second reading of the Bill by the Hon. A. C. Gregory he should have felt bound to strongly oppose it, because it was evident that the bridge was intended to be kept open; and the very fact of the Brisbane Bridge Act of 1877 providing that there should be a swing in the bridge showed clearly that it was the intention of the Legislature that the river should be an open highway to sea-going vessels, but the Act 4 William IV. No. 11, to which the Hon. Mr. Gregory had drawn attention, put a different complexion upon the case altogether; and, if the hon. gentleman was right, he would ask the Postmaster-General what steps the Government intended to take in view of the recent verdict that was given in the Supreme Court. If he was correctly informed, damages had been recovered in the Supreme Court from the corporation in connection with the closure of the bridge. Had the Government taken any notice of the Act brought under their consideration by the Hon. Mr. Gregory? Had they taken any measures to prevent the party who recovered damages from getting those damages, because, if Mr. Gregory's law was correct, he could not see how on earth anyone could claim damages from the corporation

through the swing of the bridge not being opened. That was a question on which the Committee ought to have some information. The subject was very clearly brought before the House by the Hon. Mr. Gregory on the second reading, and should have attracted the attention of the Government; and he had expected to hear from the Postmaster-General whether on that statement the Government had taken any action. The parties were either entitled to damages—and if they were, other parties were also—or they were not entitled at all; and the Supreme Court appeared to have lost sight of the Act 4 William IV., as cited by the Hon. Mr. Gregory. As he said before, he should have opposed the second reading had it not been for the Hon. Mr. Gregory's statement, for he considered that under the Brisbane Bridge Act the bridge should have been kept open no matter what inconvenience it might cause to the public. He had seen bridges with a larger amount of traffic kept open at certain hours of the day without causing any inconvenience to the public. There was a bridge across the Hooghly, where the number of vessels passing through was at least fifty times as great as those going up the Brisbane River, and that bridge was opened for an hour on certain days of the week, apparently without the least hindrance to traffic. If the Hon. Mr. Gregory's law was correct—and he had found the hon. gentleman generally correct in what he stated as a fact regarding the law—some action should be taken by the Government in the matter.

The HON. P. MACPHERSON said he believed he was correct in stating that the Act of Parliament referred to by the Hon. Mr. Gregory was repealed, as far back as the year 1878, by the Public Works Lands Resumption Act, a considerable time before Mr. McBride's cause of action accrued.

The POSTMASTER-GENERAL said the question of damages and the merits of the action from which damages accrued were matters between the plaintiff and the defendants. He had purposely refrained from adverting to the matter, holding the view just expressed by the Hon. Mr. Macpherson. He had made no reference to the Act quoted by the Hon. Mr. Gregory, who, anterior to the introduction of the Bill, spoke to him privately about the matter. He had several days to consider the hon. gentleman's view in relation to the Act he had just quoted; but the balance of his view being adverse to that held by the Hon. Mr. Gregory, he had not introduced the matter to the notice of the Committee.

The HON. P. MACPHERSON said he might also state that the Supreme Court had simply, upon demurrer, given the plaintiff (McBride) a judgment upon the law. It had been decided that he, assuming he could substantiate before a jury, or such other means as were open to him by the machinery of the Supreme Court, a claim for damages, could recover the amount of damages. The amount of damages had not yet been assessed, and he could not say what Mr. McBride's advisers would advise him to do. He had considerable delicacy in speaking on the matter as he was concerned with the corporation, and was also the proprietor of property on the Brisbane River, in contiguity to Mr. McBride's, but he entertained strong opinions with reference to the amount of damage sustained or not sustained.

The HON. SIR A. H. PALMER said he should like the Postmaster-General to inform the Committee if he had ascertained whether the Act referred to by the Hon. Mr. Gregory had been repealed?

The HON. A. C. GREGORY said the Act 4 William IV. was repealed by the Public Works Lands Resumption Act of 1878, and the repeal, of course, would put a stop to the operation of the clause he had quoted as regarded anything done afterwards; but as the parties purchased their land without any right to compensation in the event of the bridge being built so as to be an obstruction to navigation, and as the bridge was built and fell into the hands of the Government, who in effect permanently closed the swing before the Public Works Lands Resumption Act repealed the Act 4 William IV., he did not see how the repeal of the Act which debarred them from any right to compensation could create any fresh rights, though it might apply to the construction of a new bridge.

The POSTMASTER-GENERAL said, in reply to the Hon. Sir A. H. Palmer, the Government had not given any attention to the point raised by the Hon. Mr. Gregory.

The HON. F. T. GREGORY said it struck him forcibly that the only rights anyone could have in regard to the closure of the bridge would be rights resulting from the bridge having been built under an Act which provided that there should be a swing. The bridge having been originally built during the currency of the Act 4 William IV. No. 11, it was clear that no vested rights existed when the bridge was built, and there were no vested rights for compensation unless under the Brisbane Bridge Act itself, or the conditions under which the corporation were permitted to build the bridge. He should not discuss the question whether that would impose on the corporation any liability.

The HON. T. L. MURRAY-PRIOR said he might inform the Committee that he was a considerable land-holder on the Brisbane River before the bridge was constructed. He had held twelve or thirteen miles of river frontage, and he must say that in purchasing that land he never had any idea that it would acquire any further value from the navigation of the river, though at that time the Ipswich people, especially the members of Parliament, tried as much as they could to make a port of Ipswich. He differed entirely from them; and even if he had the land now he should not feel justified in claiming any compensation on account of the closure of the bridge.

The HON. W. H. WILSON said the word "closure" appeared twice in the clause—first in the 17th line and again in the 20th line. He thought that, as the Bill only provided for the temporary closure of the bridge, it would be better to insert the word "temporary" before the word "closure" in each case.

The POSTMASTER-GENERAL said the 3rd clause amply provided for that.

The HON. W. H. WILSON said clause 3 showed that the Act was to be in force for five years, still the word "closure" might be held to mean absolute closure, therefore he thought the word "temporary" ought to be inserted.

The HON. P. MACPHERSON said that clause 3 qualified the preceding clause, and showed that the closure was to be temporary.

Clause put and passed.

On clause 3—"Commencement and duration"—

The HON. A. C. GREGORY said that on the second reading he said he should object to the retrospective action of the clause unless some good grounds were shown in its favour, but he understood from the Postmaster-General that the clause was inserted merely to put a stop to other proceedings which might be commenced by other parties.

Clause put and passed.

The remaining clauses and the preamble were passed without discussion.

The House resumed, and the CHAIRMAN reported the Bill with amendments. The report was adopted, and the third reading of the Bill made an Order of the Day for to-morrow.

ELECTIONS BILL—COMMITTEE.

On this Order of the Day being read the President left the chair, and the House went into Committee further to consider the Bill in detail.

On clause 82, as follows :—

"The returning officer, as soon as possible after he has examined and counted all the ballot-papers taken at the different polling places and ascertained the gross number of votes received for each candidate, shall then at the place of nomination openly declare the general state of the poll so ascertained, and shall at the same time and place declare the name or names of the person or persons elected.

"In the event of the number of votes for any two or more candidates being found to be equal, he shall, if he is then registered as an elector of the electoral district, decide by his casting vote which shall be elected.

"No returning officer shall vote at any election for the electoral district of which he is the returning officer except in the case of an equality of votes."

—on which an amendment had been moved to omit the words "if he is then registered as an elector of the electoral district"—

Question—That the words proposed to be omitted stand part of the clause—put.

The HON. A. C. GREGORY said it would be convenient to refer to his reasons for proposing the amendment. If the words were left in, and there should be an equality of votes, and the returning officer should cease to have been an elector, the whole proceedings would have to be gone over again, and the candidates would suffer considerable expense and the voters a considerable amount of inconvenience. The difficulty might be very remote; but on the other hand it might occur at the very next election, and it should be provided that the returning officer should have a casting vote, or that the returning officer should be a person qualified to vote. If the Government considered it undesirable that a returning officer should not give a casting vote without being a registered elector it would be for them to remove that returning officer and appoint a fresh one. He therefore thought the amendment ought to be carried.

The HON. T. L. MURRAY-PRIOR said he should support the amendment. He knew of one case where there was a tie, in which the election was decided by the vote of the returning officer; and he believed two or three more cases had occurred. Therefore the question should be taken into consideration. If the returning officer were not an elector the Government could appoint another in his place, or they could provide that if a returning officer were not an elector he should have a casting vote nevertheless.

The POSTMASTER-GENERAL said he hoped the Hon. Mr. Gregory would not press his amendment. If a returning officer had an interest in the district as an elector he would have the right conferred upon him by the clause, but if the returning officer had ceased to be an elector at the time of an election it would only take ten minutes in the Colonial Secretary's Office to remove him from his position and appoint another. The contingency of a tie was very remote, but the contingency of a tie in an electorate with a returning officer not having his name on the roll at the time of the election was a thousand times more remote, and he thought it would never happen in their time. It was not worth while to amend the clause as proposed, and he hoped nothing would be done to delay the passage of the measure.

The HON. W. FORREST said he quite agreed with the amendment of the Hon. Mr. Gregory, and for this reason: that clause 82 as it now stood was inconsistent with clause 44. Clause 44 provided that—

"The Governor in Council may appoint, by commission under his hand and seal, a fit person to be returning officer for each electoral district, such person being at the time of his appointment registered as an elector of the electoral district for which he is to act."

Then clause 82 by implication conveyed tha the returning officer might not be an elector. If clause 44 provided that he must be an elector, how could he not be? If he was a registered elector at the time of his appointment, he could hardly see how it was possible for the returning officer to cease to be an elector. With regard to what had fallen from the Postmaster-General, that it would not be a proper thing to give a casting vote to a man who was not an elector, how could they possibly alter a man's political convictions whether he was registered or not? He did not see how that could affect the matter. Supposing a tie did take place, was the whole election to be gone over again? He thought the contention of the Postmaster-General was absurd.

The HON. W. H. WILSON said he hoped that the clause would be allowed to stand as it was, because he thought it was a very important matter indeed that the returning officer should be a registered elector if he was to give a casting vote. Supposing the votes on the occasion of an election should be equal; if the returning officer was not an elector he should not have a casting vote. He thought it was very improper that he should. In his opinion it would be very much better indeed that there should be a new election than that an unqualified elector should decide an important matter of that kind.

The HON. W. FORREST: Why?

The HON. W. H. WILSON said because a returning officer in that case was not an elector, and ought not to be a judge. There was no question, of course, but that some inconvenience would arise in the cases of the kind that had been mentioned—cases where there were an equality of votes, and the returning officer was not a registered voter—but in his opinion it would be much preferable that any inconvenience should be suffered, rather than allow an unqualified person to decide between two men as to which should sit for that particular electoral district.

The HON. T. L. MURRAY-PRIOR said the Postmaster-General seemed to think that he had not read the Bill at all, and knew nothing about it; but he could assure him that he perfectly understood the question. It was alleged by the Postmaster-General that some inconvenience might arise under certain circumstances, but they were there to provide against that inconvenience. Now the fault, if any fault there was, would lie with the Government who allowed the returning officer to continue to hold his position who was not on the electoral list, and if the Government did allow such a thing the reason would be very obvious: they would either be in such a position that they did not care whether the returning officer was qualified or not, or else he would remain in his position because there was no one to replace him. If such a circumstance did arise, he could not see why a man who perhaps had been a qualified voter of the electorate should not be allowed to decide the election; at any rate that would be much better than compelling candidates to go to the expense of a new election.

The HON. W. FORREST said he should like to practically test the argument of the Hon. Mr. Wilson, who said he considered it would be preferable that an election should be gone over again than that an unqualified person should give a casting vote. Let them think for a

moment what constituted their right to vote. There were a variety of qualifications. He would just name one. Take the case of a foreigner who landed in the colony and could not speak a word of English. If he was naturalised and had been six months in the colony, notwithstanding that he still could not speak English he could get on the electoral roll; and that man, who knew nothing of the customs of the country and nothing of the language, might be in a position to decide an election.

The HON. W. H. WILSON: Because he is an elector.

The HON. W. FORREST said he failed to see why a returning officer who through some inadvertence had failed to get his name on the roll, and who was not qualified, should not be able to decide an election just as well as a foreigner who understood nothing of the English language. If a man was qualified to be a returning officer, then surely he was qualified to give a casting vote in the case of an equality of votes.

The POSTMASTER-GENERAL said the hon. gentleman really wished to put the poor ignorant foreigner in a better position than that intelligent gentleman the returning officer. The hon. gentleman talked as if the returning officer was purposely going to be excluded from the roll, but the primary qualification of a returning officer was that he must be a registered elector. He (the Postmaster-General) was perfectly in accord with the Hon. Mr. Wilson in saying that any man who was a returning officer and not a registered elector was not fit to decide an election. Moreover, the Bill had come from an assembly of gentlemen who were very deeply interested in this matter. In fact, it was they who were chiefly interested in the measure. It was their matter, and they were perfectly satisfied with the clause. It had been discussed by them, and it had been discussed all over the land and had the absolute concurrence of all, and to argue about a poor foreigner coming in to balance an election and to depart from the concrete form of the Bill was fetching up an argument which he did not see any point in. In fact, hon. gentlemen were straining at a gnat and swallowing a camel. He had no particular view in the matter himself, because no returning officer would exist in Queensland who was not of some political view. The Government did not care whether the returning officer was Conservative or otherwise, but the Bill dealt with returning officers of all views, and if they cared about their privileges they would take care to put themselves on the roll.

The HON. T. L. MURRAY-PRIOR said that according to the clause a gentleman who was appointed as returning officer must be on the roll at the time of the election if a casting vote had to be given, but his name might have been omitted from various causes. If a returning officer had been on the roll and his name was accidentally omitted, he could not see why he should not be allowed to give his casting vote. The Hon. Mr. Gregory had pointed out a certain contingency that might arise, and it became their duty to provide for that contingency in a proper manner.

The HON. F. T. GREGORY said perhaps it would be as well to fall back upon first principles. At first blush the question seemed to be a very minor one, but when it was looked into more carefully it became apparent that it was necessary to have it definitely settled. In the first place electors did not become electors in view of any specific clauses or provision in our Constitution. They became electors in consequence of certain Electoral Acts which had been passed, which Acts were capable of being amended or altered by either increasing or diminishing the electoral franchise. Under those circumstances they might remove all questions connected with the mere right to become voters. In the first instance, returning officers were placed on the electoral roll as required by the 44th section. That section showed a returning officer to have been a qualified elector, whatever he might be at the time the election, took place; consequently, his fitness to vote, whether he was a man of considerable ability or position, or not, was immaterial. They assumed that the Government selected the best man who was available under the circumstances, and that they would not take anybody, such as a bullock-driver for instance, simply because he had resided six months in the district. He thought they might remove any question as to the inherent qualities or fitness of anybody who might be selected as a returning officer, but the mere objection that because a man was not an elector he could not give a casting vote was one that he could not understand the Postmaster-General making. The amendment was one to do away with an obvious difficulty. It had been argued that a tie would very rarely occur, and that therefore when it did occur it would be a very singular complication that a returning officer who was not an elector should decide the election. Why should he not? Why should a returning officer not give a casting vote no matter whether he was an elector or not? It was not as though the returning officer became an elector through any constitutional principle, because the Electoral Act simply qualified him as a voter; consequently, the objection raised of the infrequency with which a casting vote would have to be given had no force whatever, but they were bound to provide for such a contingency. He should certainly support the amendment to remove the words which made it necessary that the returning officer should be a registered voter.

The HON. G. KING said he failed to see why the fact of a returning officer not being on the electoral roll reduced his power of discrimination and prevented him from giving a proper casting vote in case of a tie. He thought that the man not on the electoral roll would be just as likely to give a just and proper casting vote as one who was on the roll. Everything depended on the appointment of the man.

The POSTMASTER-GENERAL said he would ask the Committee to consider what was the basis of a casting vote in relation to any other business. Take the case of a banking institution, a mercantile corporation, a municipal council, a divisional board, or any similar association of men who met together for the purpose of doing business and working under rules. Why, the *sine quâ non* of a chairman was that he should be on an equal footing with the persons around him. The fundamental principle in such matters was that the chairman should have an interest in any matter that was brought up for decision. That was the principle that was being followed out in the Bill—that the returning officer for the time being should have a similar interest to that of the electors. They were providing for a future very far ahead indeed in the amendment proposed, and he thought it would very likely be distasteful to the electors to have an election decided by a returning officer who was not on the electoral roll, and on the same footing with other electors.

The HON. W. FORREST said the parallel that had been drawn by the Postmaster-General with reference to the chairman of any financial institution having a casting vote did not hold good in any way. In that case a property qualification was necessary, but let them see what really qualified a man to become a returning

officer. Every man of the age of twenty-one, being a natural born or naturalised subject of Her Majesty, was entitled to vote. He had simply got to have his name registered, and he (Hon. Mr. Forrest) would ask how that man was going to get rid of a qualification of that sort so long as he resided in the district? When a man lived in a district he had just as much interest in its affairs whether he was a registered voter or whether he was not.

The HON. E. B. FORREST thought they were fighting a shadow. A man who was called upon to preside at an election should, he thought, be an elector, more particularly if he was called upon to give a casting vote; otherwise he practically returned the member for the district himself. If there was any point more evident than another, it was that the electors of the district should return their member. If the presiding officer had no more interest in a district than the man in the moon, it would be manifestly unfair that he should decide the election. He hoped the Hon. Mr. Gregory would not press the amendment, because there was very little in it.

The HON. W. FORREST said he wished to point out to hon. gentlemen that the Hon. E. B. Forrest, as well as the Postmaster-General, were simply trying to throw dust in their eyes when they said that because a man was not registered as a voter he was not interested in the district. How many instances did they know of where large proprietors in a district, through some inadvertence, or through the fault of those who had charge of the rolls, had their names omitted! He knew of many cases of that kind, but no one would venture to say that such men had no interest in the district. A man might be very largely interested and hold a great deal of property in the district and still never have his name on the electoral roll, and if he was appointed by the Government as returning officer he ought to be in a position to give a casting vote.

The HON. E. B. FORREST said it had never been contended, either by himself or the Postmaster-General, that because a man did not happen to be registered as a voter he had no interest in the district in which he lived, but it had been contended that where a man was not qualified as an elector he had no right to hold the position of returning officer. When a man ceased to be an elector he should cease to be a returning officer. It was certainly incumbent upon the Government to appoint a returning officer who was an elector, and then in case of emergency the election would really be decided by the electors.

The HON. SIR A. H. PALMER said the difficulty might be met by inserting a clause to the effect that the Government should not have power to appoint anyone as a returning officer unless he was an elector.

The HON. W. G. POWER: And unless he continues to be an elector.

The POSTMASTER-GENERAL said he would suggest that hon. gentlemen should let the clause pass; and as the Bill had to be recommitted they would have time to think the matter out before then.

The HON. A. C. GREGORY said clause 44 provided that when a returning officer was appointed he should be an elector. If residence was a qualification, that qualification would not cease to exist under ordinary conditions. If, however, a returning officer was a freeholder, derived his qualification from the freehold, and afterwards sold the freehold, although he might remain on the list until immediately before the election, he might not be registered when the election took place. No part of the Bill provided that if he ceased to have his qualification he was to be removed from his office as returning officer. He knew of great numbers of cases where electors had been struck off the rolls for various reasons. He himself had been a registered elector in virtue of a freehold, and yet he had been struck off twice—in one case in very good company. He had been struck off in virtue of his freehold, and at the same time the hon. the President was struck off. When that happened, the qualification had not changed or altered in any way; the names were actually put down on the roll, but somebody had thought they should be removed. He simply mentioned that to show that it was quite possible in some cases, either by chance or surreptitiously, as in his case, names might be struck off the roll as he had mentioned. He was quite as much interested in the district as if his name had been kept on the roll. A returning officer, according to the clause, might remain on the roll up to the last moment, when his name might be struck off, and then when the election was over, that being discovered, the objection might be raised that the election was invalid, and that it must be gone through again. It was not a question of the fitness of the individual; and if by any act he ceased to be a voter, then it was the function of the Government to remove him and appoint someone else. In most instances they knew the Government would do so; but they knew also how easy it was for such things to be overlooked at the time, and how names might be removed from the roll, not in a proper but in an improper manner. That might de done under circumstances which it would not be desirable to allow. He therefore should adhere to the amendment, which was simply to remove a difficulty that might arise. If the contingency was so exceedingly remote that it would never happen in their time, then his amendment could have no prejudicial effect whatever; but if the case did occur then his amendment would save both the country and the electors a great amount of inconvenience and expense.

The POSTMASTER-GENERAL said if the amendment was carried it would produce the result that the Government would take no interest in the question as to whether returning officers were registered on the roll or not. They began, in clause 44, by saying that a returning officer's qualification for voting was the fact of his name being on the roll, and yet if they removed the words proposed they would take away the very qualification which gave him the position of returning officer. He could have understood hon. members amending clause 44 so far as it related to the appointment of a returning officer who was not an elector, and leaving clause 82 as it was, but the arguments in favour of the proposed amendment were incomprehensible to him. With regard to the removal of names from the roll, he believed that would not happen after the Bill became law. With regard to the amendment, it might be made a condition that returning officers should not be on the rolls at all, and the chances of any harm accruing would be very remote. How often had they to give a casting vote? Possibly not once in twenty years. He thought, in view of the provisions contained in the Bill and the care with which every elector must give his vote, and bearing in mind the fact that the scrutineers would closely watch the proceedings, they might very well leave the clause as it stood.

The HON. F. T. GREGORY said that one point had been overlooked in discussing the amendment—namely, that no injustice would be

done by giving a casting vote. Such a vote could only be given in an electorate where opinions were so equally divided that the election resulted in a tie; therefore no injustice could be done. The statement that a returning officer ought to see that he retained his qualification would not hold water for a moment; for, in addition to what had been stated by the Hon. A. C. Gregory, he could inform the Committee that, though he had been the owner of freehold property in Brisbane for twenty-four years, his name had been struck off the roll four times and was off at the present moment. The name of the Hon. T. L. Murray-Prior had been struck off in the same way, and that showed that it was not an exceptional case, but continued to be done up to the present time. It was not for him to say how it was done, but, whenever opportunity offered, certain parties in an underhand way got certain names struck off the roll, and it behoved the Committee to provide against chicanery of that description. As he said before, no injustice would be done if the returning officer had the power to give a casting vote; but a great deal of injustice and loss of time would ensue if he had not a casting vote. It was a provision which ought to be made, but which would rarely be required.

Question — That the words proposed to be omitted stand part of the clause—put, and the Committee divided:—

CONTENTS, 6.

The Hons. T. Macdonald-Paterson, W. H. Wilson, W. Pettigrew, J. Swan, F. H. Holberton, and E. B. Forrest.

NON-CONTENTS, 8.

The Hons. T. L Murray-Prior, A. C. Gregory, G. King, F. T. Gregory, W. Forrest, P. Macpherson, W. G. Power, and A. J. Thynne.

Question resolved in the negative.

Clause, as amended, put and passed.

Clauses 83 to 89, inclusive, passed as printed.

On clause 90—"Bribery defined"—

The HON. T. L. MURRAY-PRIOR said it struck him that there were so many penal clauses in the Bill that in the working of the measure they would defeat the object in view. It would not be difficult, by a little misinterpretation of the measure, to bring up the most honest man that ever lived as an offender against such provisions.

Clause put and passed.

Clauses 91 to 131, inclusive, passed as printed.

The House resumed; the CHAIRMAN reported progress, and obtained leave to sit again tomorrow.

The House adjourned at seven minutes past 6 o'clock.