

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 18 NOVEMBER 1886

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LEGISLATIVE COUNCIL.

Thursday, 18 November, 1886.

Petitions.—Extension of Central Railway.—Fortitude Valley Railway.—Building Societies Bill—third reading.—British Companies Bill No. 2.—second reading.—Bowen to Townsville Railway.—committee.—South Brisbane Mechanics Institute Land Sale Bill—committee.—Godsall Estate Enabling Bill—committee.—Crown Lands Act of 1884 Amendment Bill—second reading.—Gold Fields Homestead Leases Bill—second reading.—South Brisbane Mechanics Institute Land Sale Bill—committee.—Godsall Estate Enabling Bill—committee.—Adjournment.

The PRESIDING CHAIRMAN took the chair at 4 o'clock.

PETITIONS.

The HON. P. MACPHERSON presented a petition from twenty-six importers, merchants, and traders of the city of Brisbane, praying the House to sanction the construction of the Warwick to St. George railway, now before Parliament; and moved that it be read.

Question put and passed, and petition read by the Clerk.

The HON. J. TAYLOR moved that the names of the signatories be read.

Question put and passed, and names read by the Clerk.

The HON. W. F. TAYLOR presented a petition, signed by 924 inhabitants of Warwick and the surrounding district, in favour of the construction of the proposed railway from Warwick to St. George; and moved that it be read.

Question put and passed, and petition read by the Clerk.

On the motion of the HON. W. F. TAYLOR, the petition was received.

The HON. P. MACPHERSON said: Hon. gentlemen,—I find that inadvertently I did not move that the petition which I presented should be received. The Hon. J. Taylor took the rather unusual course of moving that the names of the signatories be read, and the matter dropped from my mind in consequence. With the permission of the House, I now beg to move that the petition be received.

Question put and passed.

EXTENSION OF CENTRAL RAILWAY.

The POSTMASTER-GENERAL presented the report of the select committee on the proposed extension of the Central Railway to the Thomson River, and moved that it be printed.

Question put and passed.

FORTITUDE VALLEY RAILWAY.

The POSTMASTER-GENERAL said: Hon. gentlemen,—I beg to move that the notices of motion Nos. 1 and 2, standing in my name, be postponed till Tuesday next.

Question put and passed.

BUILDING SOCIETIES BILL.

THIRD READING.

On the motion of the HON. W. HORATIO WILSON, this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly, by message in the usual form.

BRITISH COMPANIES BILL No. 2.

SECOND READING.

The POSTMASTER-GENERAL said: Hon. gentlemen,—In view of the time that a number of members of this Chamber have had to give this week to the work of committees, it has been impossible, I understand from a conversation I have had with several hon. members, to give anything like reasonable attention to the three Bills that come on for second reading this afternoon. The Bill I have in my hand—namely, a Bill to amend and declare the law of Queensland with respect to joint-stock companies incorporated in other parts of Her Majesty's dominions—is one the principles of which I think will be concurred in most cheerfully by every colonist, I may say, as well as by every member of Parliament. I have not had time to look at it since it came into our hands, and I am unaware of any alterations that have taken place after the measure was presented to the other Chamber. It may briefly be said to be a measure to encourage and facilitate the establishment in our colony of British financial institutions which have hitherto attempted to establish branches of their business here, but which have been deterred from doing so for many years past, as has been alleged, but I believe incorrectly, by deficiencies and defects in the laws of our country respecting the powers of corporations of that kind with regard to the advancing of money on mortgage and foreclosing mortgages, and otherwise dealing with such securities as private individuals would do, or as a corporate body would do, if it was a local company. I think that that, in a few words, is what this Bill is intended to achieve. That it will have a beneficial result I have not the slightest doubt. I think there are a number of members of this Chamber who have had more leisure during the past two or three months than I have had to study this question,

who will be able to tell the House from their own knowledge that there are certain companies which intended to invest a large amount of capital in Queensland, but were deterred from doing so for the reasons I have mentioned. I need hardly say that I hope the Bill will receive the attention of this House. I feel certain that it will receive careful attention. It is an important measure, and one bearing very largely upon the future prosperity and development of the various resources and industries of this country. I now beg to move that the Bill be read a second time.

The HON. F. T. GREGORY said: Hon. gentlemen,—I am very much in the same position as the Postmaster-General. I have not been able to study the Bill as closely as it deserves, but I have been able, from a general knowledge of the structure of measures of this sort, and having read it through, to say that the general principles of the Bill are such as, I think, will commend themselves to this House. The main object of the measure, so far as I understand it, is to enable companies having considerable means at their disposal to be placed upon an equal footing in this colony with that which they would hold in the country in which they originated. The Bill will not alter their articles of association, and it will not place companies in a different position to that which they now occupy, with the exception that as the law now at present stands they cannot deal with real property in this colony, and hold it upon the same terms as local companies already registered; and that defect is remedied by this Bill. The defect has existed for some years, and has given a great deal of trouble in dealing with transactions connected with foreign companies who have branches out here. I dare say it is in the recollection of many hon. gentlemen what troubles the banks had some years ago in consequence of being incorporated in the old country, and not having a full legal status here as local banks had, because they had not received the sanction of the local Legislature to carry out their functions to the fullest extent that they would be entitled to by their original deed of incorporation in other parts of the British Empire. These being the salient points of the Bill, I am quite prepared to support its second reading, but when it goes into committee I shall deal on their merits with one or two amendments which have been shadowed forth. I, therefore, very gladly give my concurrence to the second reading of the Bill.

The HON. A. HERON WILSON said: It is not with the intention of opposing this Bill that I rise to speak, but I think there are some matters omitted from it which might be inserted for the protection of the public of Queensland. By this Bill there are certain powers given to joint-stock companies, shipping agents, and such like trading to this country. They may register here, and they may give powers of attorney to their agents to sue parties in Queensland. There is, however, nothing in the Bill to enable any person who may have a claim against a company to directly sue them in this colony. I think there ought to be a clause inserted whereby any person should have the chance of suing a company in this colony.

The HON. P. MACPHERSON: It can be done now.

The HON. A. HERON WILSON: I cannot see anything about it in the Bill, and I think there ought to be some provision of that kind.

The HON. P. MACPHERSON: Look at the 9th clause.

The HON. A. HERON WILSON: Well, that is nothing; a man can say "I have a writ," but

what is the good of that? I have served a writ before this and waited two years and a-half before I could get paid. We want something better than this clause. I am not enough of a lawyer, perhaps, to understand the full effect of the clause, but I do not think it is at all an adequate provision. It is all very fine serving a writ, but that does not give a person power to obtain what may be due to him. I hope hon. gentlemen will give this matter their careful consideration. It is all very well to have a clause like this, but I regard it as a loophole for the companies. A person may serve a process by the 9th clause, but I defy any lawyer in this House to show that we can gain the case in the colony under this Bill. I will be quite satisfied if they can show that. A recent case has been mentioned to me, which occurred in this city, in which Mr. Samuel Maxwell had a claim against the British-India Company, but he had no legal means of obtaining redress except by summoning the captain and arresting the steamer before it sailed. Is there anything in this measure to overcome a difficulty of that kind? I shall be glad to hear the views of my friend, the Hon. Mr. Macpherson, on this point.

The HON. G. KING said: Hon. gentlemen,—The thanks of the colony are due to the Premier for having introduced at this late period of the session a measure of such great utility as this British Companies Bill. It will be a great boon to joint-stock companies incorporated in the neighbouring colonies, whose status has been hitherto undefined, because, as hon. members are aware, our Foreign Companies Act of 1867 applies only to English limited liability companies registered under the Imperial Act of 1862, and no provision is made in our statutes for companies from the other colonies wishing to do business here; they are therefore at a serious disadvantage. The position of English companies with unlimited liability, incorporated by Royal charter or statutes of the Imperial Parliament, is totally different from that of a colonial company created by an Act of a colonial legislature, having no legal effect beyond the confines of that colony. The rights and privileges which Royal charters and Acts of the Imperial Parliament grant to companies so incorporated extend to all parts of Her Majesty's dominions, unless modified by the acts of local legislatures, with Imperial sanction. No such legislation has been attempted in Queensland, and therefore the doubts which have been raised as to the powers of holding land as mortgagees are mere legal fallacies not resting on any foundation of fact. The status here and rights of companies incorporated by Royal charter or Acts of Parliament is the same in Victoria, New South Wales, and Queensland, and has never been questioned except in Queensland, where doubts resting on no foundation have been expressed. For the purpose of clearing away those doubts, which he himself did not share, for his legal mind could not be misled by such fallacies, Sir Samuel Griffith, after listening to the representations of a number of gentlemen, who stated that the influx of a great amount of English and colonial capital was withheld, in consequence of these doubts, consented to introduce the Bill. I have none of those doubts myself. They may exist in legal minds; but I believe that in Queensland the rights and privileges conferred upon companies by Royal charter and Acts of the Imperial Parliament are identically the same as in New South Wales and Victoria. Nevertheless, we are desirous, in the interests of the country, of removing any doubts there may have been needlessly created, and I trust the passing of this Bill will have that effect. I have much pleasure in supporting the second reading of this Bill.

The HON. P. MACPHERSON said: Hon. gentlemen,—I do not intend to say much about this Bill. I have very much pleasure in supporting it. In the first place because it sets at rest a much-vexed question—a question which has occupied the minds of eminent lawyers throughout the colonies during the last two or three years—as to the right of a foreign company, whether British or otherwise, to hold land in Queensland. I have never entertained any doubt whatever as to the rights of foreign companies to accept mortgages on property coming within the Real Property Act. In such cases as that, where lands do not pass to such companies, the question does not arise. The greater part of the transactions of these companies have been in reference to lands under the Real Property Act, and therefore, except in cases where a company has wished for premises in which to carry on its business, no very great inconvenience has existed; still it is necessary that the question should be decided. There is one clause in the Bill to which I wish to draw the attention of the Postmaster-General, and that is the 13th, which reads as follows:—

“In the event of the winding-up of a registered British company, all land of the company within Queensland, and all money due to the company upon the security of land within Queensland, shall be applicable in the first instance in payment and discharge of the debts of the company contracted within Queensland, in priority to any other debts of the company.”

I submit that, as the majority of companies which lend money in this colony do so with British capital, the British creditors should have equal rights with the Queensland creditors. A certain banking institution that I am acquainted with issues debentures, and uses the money so raised by lending it in Queensland. Why should not the English creditors of that bank come in the same category as the Queensland creditors if anything happened to the bank? There are other companies in the same position, and I do not see why the Postmaster-General should not consent to the omission of the words “and all money due to the company upon the security of land within Queensland.” In all reason and good sense, the hon. gentleman should not object to that amendment, as otherwise it will be a bar to capital coming into the country. Coming back to the Hon. A. H. Wilson's objection, I cannot understand it. If I am wrong, no doubt he will correct me; but he asked me my opinion about it. The worst of it is that when I give him my opinion he never pays for it. It seems to me that the 9th clause of the Bill meets his objection, but when once a process of law has been served, the judgment of a court can be obtained, and the company can be wound-up under the 12th clause. If the company has any assets in Queensland those assets can be made available. The Supreme Court can find a judgment, but it cannot find assets. A lawyer can find the law, but he cannot find the wherewithal to satisfy the judgment. I hope my hon. friend is satisfied with what I have said upon the subject. I have great pleasure in supporting the Bill, and I trust the Postmaster-General will be able to see his way to meet the views I have expressed.

The HON. J. TAYLOR said: Hon. gentlemen,—I am glad that Sir S. W. Griffith has brought the Bill forward, and I shall state my reasons. Some short time ago I had a visit from a gentleman who was the agent for a large company in Scotland, and he had the power to dispose of its capital to the extent of several millions of money; so he told me. I told him I would be very glad to relieve him of half-a-million myself, and he seemed very well pleased. The first year the interest was to be 5½ per cent., and after that it was to

be 5 per cent. only. The 5½ per cent. was charged, so that sum was to cover charges, and I thought those were very excellent terms, and should be glad to see him again. We spent a very pleasant evening together, and he left for Brisbane next morning. A few days afterwards I received a letter from him from Brisbane, saying that, unfortunately, the Queensland law would not allow him to act safely within this colony. He had taken a lawyer's advice, and decided that until a certain Bill was passed he would not lend £1 here. I have heard it said that the Bill is not required at all, but if there is any doubt in the minds of people who have money to lend, it is better to set their minds at rest. I am glad to see the Bill before the House.

The HON. A. J. THYNNE said: Hon. gentlemen,—I can only add to what my hon. friend, Mr. Macpherson, has said by saying that I hope the Postmaster-General will take that hon. gentleman's suggestion into consideration. It is a suggestion that deserves to be considered, because, under any circumstances, apart from this Bill, money due to companies would go to the country where they were established, for distribution amongst the creditors, and it is working a point upon these companies to insist that moneys due to them upon land in the colony should be kept in the colony itself. We give them the privilege of holding freehold land in the colony, and it is enough for all practical purposes to require that money due upon such land should be kept in the colony. The Government, I think, upon further consideration will not object to the alteration. Even if they do I shall certainly not imperil the Bill by insisting upon the amendment; but I trust they will not offer any objection. The Hon. A. H. Wilson saw some difficulty in companies not being able to sue, but I think that has been in one sense fully answered by the Hon. Mr. Macpherson. I fancy the hon. gentleman did not put his case as fully as he might. The difficulty he referred to was in regard to a foreign company which is not established in the British possessions, but with those companies the Bill will have nothing to do.

The HON. A. HERON WILSON: I referred to the British-India Company.

The HON. A. J. THYNNE: The British-India Company is registered, and under this Bill that company's assets in this colony will be liable for any debts incurred in it. I was about to say it has been my unfortunate experience upon many occasions to see good business stopped and prevented in the purchase of mineral properties and freehold properties, and in the investment of moneys in many other ways, in consequence of the doubts that have been raised of late years, and which this Bill is intended to do away with. I hope the Bill will pass, and there will be no difficulty in the way of its becoming law.

Question—That the Bill be now read a second time—put and passed.

On the motion of the POSTMASTER-GENERAL, the committal of the Bill was made an Order of the Day for to-morrow.

BOWEN TO TOWNSVILLE RAILWAY BILL.

COMMITTEE.

On the motion of the POSTMASTER-GENERAL, the Presiding Chairman left the chair, and the House went into committee to consider the Bill in detail.

The various clauses of the Bill and the preamble were passed as printed.

On the motion of the POSTMASTER-GENERAL, the House resumed, and the CHAIRMAN reported the Bill without amendments.

The report was adopted, and the third reading of the Bill made an Order of the Day for to-morrow.

SOUTH BRISBANE MECHANICS INSTITUTE LAND SALE BILL.

COMMITTEE.

The HON. A. J. THYNNE said: Hon. gentlemen,—I beg to move the postponement of this Order of the Day until after the consideration of Order of the Day No. 7.

Question put and passed.

GODSALL ESTATE ENABLING BILL.

COMMITTEE.

The HON. F. T. GREGORY said: Hon. gentlemen,—I beg to move the postponement of this Order of the Day until after the consideration of Order of the Day No. 7.

Question put and passed.

CROWN LANDS ACT OF 1884 AMENDMENT BILL.

SECOND READING.

The POSTMASTER-GENERAL said: Hon. gentlemen,—In moving that this Bill be now read a second time, I have to state that it has been arranged by both sides of the House that this reading will be regarded as formal, for reasons which were mentioned a few minutes ago when I moved the second reading of the British Companies Bill—namely, that a number of hon. gentlemen have not had time to give full consideration to its various clauses, and for other reasons that are known to hon. gentlemen. In order to expedite the business of the House, I therefore simply move that the Bill be now read a second time.

The HON. A. C. GREGORY said: Hon. gentlemen,—As the Postmaster-General has said, we have not had sufficient time to go care fully into this Bill; but having gone rapidly over it, it appears to me that the greater part of it is in fact what we may term an "Enabling Bill." It simply appears, so far as I yet understand it, to be a Bill which will enable the pastoral lessees, under the present Act, to accept other terms than those under which they at present hold their lands, and sets forth the conditions under which they are to hold them if they elect to come under the Bill. There are one or two clauses which may act prejudicially to those who hold land under the present Act: but they seem to be matters of minor importance, which we will be able to deal with in committee. It seems as if we were to say to the lessees, "We offer you certain terms different from those on which you hold your lands at present; if you like to accept those terms, you must accept both the good and the bad, and if you do not choose to do so, you remain as you are; we neither impose additional conditions nor take away your leases from you." The Bill is one of those which it was shadowed forth on the passing of the principal Act would come up every year. There is one part which deals with selection before survey. The Government find that their scheme of survey before selection is impracticable, and now they are obliged to ask us to allow them to do what they refused us before the principal Act was passed. I do not think we shall incur any risk in agreeing to the second reading

of the Bill, and the clauses I have referred to will afford material for consideration when it goes into committee. In agreeing to the second reading of the Bill, it must be clearly understood by hon. gentlemen that I do not, by approving of its general principle, bind myself in any way to approve of the Bill on its further stages, because it is quite possible that when I have carefully studied it, it may appear somewhat different from what it does now. I do not think it necessary to go into its provisions now. When hon. members have read it carefully, they will be in a position to deal with it upon its merits. Some parts of it are no doubt very good.

Question—That the Bill be now read a second time—put and passed.

On the motion of the POSTMASTER-GENERAL, the committal of the Bill was made an Order of the Day for to-morrow.

GOLD FIELDS HOMESTEAD LEASES BILL.

SECOND READING.

The POSTMASTER-GENERAL said: Hon. gentlemen,—This also is one of the measures which may be passed in a formal manner this afternoon. The Bill has for its object the establishment of a mode by which homesteads may be subdivided and mortgaged, and dealt with in other respects. I hope that when in committee the Bill will receive the same consideration that the Crown Lands Bill promises to receive. I move that the Bill be read a second time.

The HON. P. MACPHERSON said: Hon. gentlemen,—I may say that I have been communicated with by several parties who doubt the effects of this Bill, and it is quite possible that in committee I may propose certain amendments upon it. The Bill has only been in our hands a few hours, and I have not had an opportunity of conferring with the Postmaster-General, nor have I had an opportunity of obtaining the views of my hon. friend Mr. A. C. Gregory. I call the Postmaster-General's attention particularly to clause 4, in which it is provided:—

"The Governor in Council may resume the whole or any part of a holding held under the said repealed Acts."

I think it is only fair—and the majority of hon. gentlemen will agree with me—that some notice should be given by the Government before the resumption takes place. I think the tenant should be entitled to at least something like six months' notice, under the circumstances—at all events, to some notice. Looking at clause 7, some question may arise as regards the holders of portions of 40 acres within two miles of the boundaries of a township on a goldfield. I shall have an opportunity of discussing that matter privately with the Postmaster-General. Referring to clause 22, it is there provided:—

"Any lessee under this Act may, with the approval of the warden, and upon payment of the fee of ten shillings, transfer any part of the holding, not less than half an acre in extent if the holding is within the limits of a proclaimed township, and not less than two acres in extent in any other case, to any person qualified to be the lessee of a holding under this Act."

Why should the goldfields warden be allowed to interfere at all? A man who holds property has a right to transfer it, if he thinks fit, without asking anybody's consent; but under this Bill a man has not power to subdivide his holding without the consent of the warden. In regard to clause 31—

"The Governor in Council may resume the whole or any part of a holding under this Act"—

I make the same objection to that as I did in reference to clause 4. Then the clause goes on to say:—

“ Upon any such resumption the lessee shall be entitled to compensation for any improvements upon the land which are taken, destroyed, or rendered useless; but shall not be entitled to any compensation in respect of the value of the land or the lessee's interest therein.”

That does not accord with the latter part of clause 4, in which it is expressly provided that the lessee shall be allowed the value of his interest in the land. I merely mention these matters for the consideration of the Postmaster-General. I know that this is a late period of the session, and I do not wish to do anything that may jeopardise the passing of the Bill; but, at the same time, I think the lessees ought to be fairly dealt with.

Question—That the Bill be now read a second time—put and passed.

The committal of the Bill was made an Order of the Day for to-morrow.

SOUTH BRISBANE MECHANICS INSTITUTE LAND SALE BILL.

COMMITTEE.

On the Order of the Day being read, the Presiding Chairman left the chair, and the House resolved itself into a Committee of the Whole to further consider this Bill in detail.

The HON. A. J. THYNNE moved that the following new clause be inserted after clause 4:—

It shall be lawful for the said corporation to raise from time to time, upon the security of the land to be so acquired by them as aforesaid, such sum or sums of money as may be required for the purposes of the said corporation, but so as that the total sum or sums so raised shall not at any one time exceed the sum of £2,000.

New clause put and passed.

The HON. A. J. THYNNE moved that the following new clause be inserted after the last new clause as passed:—

No loan shall be incurred by the said incorporated society for the purposes or upon the security aforesaid unless the members of the said society, duly summoned to consider the same by three consecutive advertisements in at least two of the local journals of the day, shall, in public meeting assembled, authorise the committee or other proper officers for the time being to incur such loan, and the first of such consecutive advertisements shall be published at least one week before the day fixed for such public meeting.

New clause put and passed.

The remaining clauses of the Bill, and the preamble, were passed as printed.

On the motion of the HON. A. J. THYNNE, the CHAIRMAN left the chair, and reported the Bill to the House with amendments. The report was adopted, and the third reading of the Bill made an Order of the day for to-morrow.

GODSALL ESTATE ENABLING BILL.

COMMITTEE.

On the motion of the HON. F. T. GREGORY, the Presiding Chairman left the chair, and the House resolved itself into a Committee of the Whole to consider this Bill in detail.

The several clauses of the Bill, the schedules, and the preamble, were passed as printed.

On the motion of the HON. F. T. GREGORY, the CHAIRMAN left the chair, and reported the Bill to the House without amendment. The report was adopted, and the third reading of the Bill made an Order of the Day for to-morrow.

ADJOURNMENT.

On the motion of the POSTMASTER-GENERAL, the House adjourned at sixteen minutes past 5 o'clock.