Queensland

Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 25 OCTOBER 1888

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LEGISLATIVE COUNCIL.

Thursday, 25 *October*, 1888.

Message from the Administrator of the Government—Customs Duties Bill.—Message from the Legislative Assembly—Public Works Lands Resumption Bill.—Reply to Address of Condolence to Lady Musgrave.—Formal Motions.—Additional Sitting Day.—Day Dawn Block and Wyndham Gold-Mining Company's Railway Bill—second reading.—Chinese Immigration Restriction Bill—second reading.—Railways Bill—committee.—Adjournment.

The PRESIDING CHAIRMAN (Hon. T. L. Murray-Prior) took the chair at 4 o'clock.

MESSAGE FROM THE ADMINISTRATOR OF THE GOVERNMENT.

CUSTOMS DUTIES BILL.

The PRESIDING CHAIRMAN announced the receipt of a message from the Administrator of the Government, conveying His Excellency's assent, on behalf of Her Majesty, to a Bill to repeal the existing duties of Customs and the Beer Duty Act of 1885, and to grant certain other duties of Customs in lieu thereof.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

PUBLIC WORKS LANDS RESUMPTION BILL.

The PRESIDING CHAIRMAN announced that he had received a message from the Legislative Assembly, intimating that they disagreed to the amendment of the Council in the Public Works Lands Resumption Bill, because section 34 of the principal Act dealt with the question of costs in a more equitable manner than that proposed by the Legislative Council's amendment.

On the motion of the MINISTER OF JUSTICE (Hon. A. J. Thynne), the consideration of the message was made an Order of the Day for Tuesday next.

REPLY TO ADDRESS OF CONDOLENCE TO LADY MUSGRAVE.

The PRESIDING CHAIRMAN said: Hon. gentlemen,—I have to report that in pursuance of the Order of the House, I have presented to Lady Musgrave the address of condolence passed on the 16th instant, and that Lady Musgrave has made thereto the following reply:—

"Mr. CHAIRMAN,—

"I feel deeply this act of kindness toward me, and reverence for the character and work of my beloved husband, the late Governor of Queensland, on the part of honourable gentlemen of the Legislative Council. I cannot doubt that his memory will be cherished among you as that of one who gave all his efforts to fulfil the duties of his high office.

"I remain, Sir,

"Your obedient servant,

"JEANIE LUCINDA MUSGRAVE.

"Government House,

"Brisbane, 20th October, 1888."

FORMAL MOTIONS.

The following formal motions were agreed to:—

On the motion of the MINISTER OF JUSTICE—

1. That the plan, section, and book of reference of the proposed extension (section 2) of the Maryborough-Gayndah railway, from 25 miles 27 chains 50 links to 45 miles 60 chains 00 links, in length 20 miles 32 chains 50 links, as received by message from the Legislative Assembly on the 23rd instant, be referred to a select committee, in pursuance of the 111th Standing Order.

2. That such committee consist of the following members, namely:—Mr. Wood, Mr. Pettigrew, Mr. Power, Mr. J. T. Smith, and the mover.

On the motion of the MINISTER OF JUSTICE—

1. That the plan, section, and book of reference of the proposed extension of the Cairns-Herberton railway, from twenty-four miles to forty-two miles, in length eighteen miles, as received by message from the Legislative Assembly on the 23rd instant, be referred to a select committee, in pursuance of the 111th Standing Order.

2. That such committee consist of the following members, namely:—Mr. Pettigrew, Mr. Aplin, Mr. Cowlishaw, Mr. J. T. Smith, and the mover.

On the motion of the MINISTER OF JUSTICE—

1. That the plan, section, and book of reference of the proposed extension of the Cooktown railway, from 67½ miles to 97½ miles, in length 30 miles, as received by message from the Legislative Assembly on the 23rd instant, be referred to a select committee, in pursuance of the 111th Standing Order.

2. That such committee consist of the following members—namely, Mr. E. B. Forrest, Mr. Wood, Mr. Aplin, Mr. J. T. Smith, and the mover.

On the motion of the MINISTER OF JUSTICE—

1. That the plan, section, and book of reference of the first section of the proposed Croydon branch railway, 13 miles to 42 miles from Normanton, in length 29 miles, as received by message from the Legislative Assembly on the 23rd instant, be referred to a select committee, in pursuance of the 111th Standing Order.

2. That such committee consist of the following members—namely, Mr. Brentnall, Mr. Pettigrew, Mr. Aplin, Mr. J. T. Smith, and the mover.

ADDITIONAL SITTING DAY.

The MINISTER OF JUSTICE, in moving—

That, unless otherwise ordered, this House will meet for the despatch of business at 3·30 p.m. on Friday in each week, in addition to the days already provided by Sessional Order—

said: Hon. gentlemen,—I think it is well that we should take to ourselves the power of sitting on Fridays, in order to dispose of any business which we may be called upon to despatch without causing undue delay to Parliament. Of course, on occasions when there is no necessity for sitting an additional day, I should be very sorry to ask hon. members to sit on Fridays. It is only in cases where it is absolutely necessary, in order to forward the conduct of public business, that I should ask hon. members to sit on the additional day which is now proposed.

Question put and passed.

DAY DAWN BLOCK AND WYNDHAM GOLD-MINING COMPANY'S RAILWAY BILL.

SECOND READING.

The MINISTER OF JUSTICE said: Hon. gentlemen,—this Bill, as its title shows, is introduced for the purpose of authorising "the Day Dawn Block and Wyndham Gold-mining Company, Limited, Charters Towers, to construct and maintain a branch line of railway to be connected with the Northern Railway." The proposed line is one which will be about sixty chains in length and will connect the celebrated Day Dawn

Block and Wyndham gold mine with the Northern railway. The estimated cost of the work is about £3,965. Usually a company or a private individual desiring to have a line constructed for their private use deposits with the Commissioner for Railways the sum of £500 as a guarantee of good faith, but in this instance the company have gone further, and have deposited with the Government, the whole of the estimated cost of the line; they have also given an effective guarantee to pay any further outlay or expense that may be necessary in connection with the construction of the line. I may state that the Government are constructing the line under their own Engineer, on behalf of the company. The expense that will be required has been, as I have already shown, prepaid by the company. The object of the line is to enable the company to send quartz from their mine along the branch line, and along the main line to a distance of about thirteen miles on the bank of the Burdekin River. At that point the company have erected a large crushing plant, which has been described by those who have seen it as one of the finest, if not the finest, in Australia—in fact, one that is not easily surpassed. The crushing power of this machinery is sixty stamps. It is estimated to be capable of treating between 600 and 700 tons of quartz per week. The whole of that quartz will be carried along this 60 chains of new line, and over about 12 miles of the Government railway already constructed. It is, therefore, self-evident that the construction of this short line, at the expense of the company, will conduce very materially to traffic on, and revenue from, the Northern railway. The mine itself is estimated to produce about 300 tons of stone per week, and it is very likely that, as the company have the extra crushing power, the mine-owners in the neighbourhood of this branch line will avail themselves of it to send their stone also to the Burdekin River to be crushed. The great advantage secured to this company, and which is offered to other companies, is, that at the Burdekin River they have an ample supply of good water for the purpose of treating the ore. The mill is erected at a place where its operations will not in any way affect the water supply of Charters Towers. The Bill itself is a very short one, and very simple in its provisions. The 2nd clause gives authority for the construction of a branch line to be connected with the Northern Railway. The 3rd clause gives the right to the company to exercise certain powers and privileges under the Railways Act, and not only to exercise those powers, but also to be liable to the same duties and obligations as are enforced under the present law upon the Commissioner for Railways. The usual plan and book of reference for carrying out the works will have to be submitted, and proper provision made for the convenience of owners of land adjoining the branch line, with regard to gates, fences, drains, etc. The 4th clause provides that the branch line shall be at all times open to the Government and the public, upon payment of such tolls as may be prescribed. By the 5th clause the Governor in Council has power to revise or reduce any tolls or dues, if they are considered excessive. The 6th clause is one that is, perhaps, not of very much importance. It provides for the carriage free of mails when required. At present no mails are required to be carried on the line, but as a provision of this kind is usually inserted in such measures, it is just as well to include it in this Bill. The 7th clause gives the company and the Commissioner power to use steam locomotives on the line, and it further provides that—

"The company shall, if required, at the expense of any person requiring to use the railway, make openings in the rails, and such additional lines of rail as may be necessary for effectuating connection with the railway in places where such connection can be made without injury to the railway and without inconvenience to the traffic thereon."

The 8th clause provides that the company may require the Commissioner, subject to conditions prescribed by the Government, to carry quartz or other material, and waggons of the company over any portion of the Northern Railway. There is no land resumption required for the railway. The line runs over leaseholds held by other persons, but they are consenting parties. It also runs over a portion of some public thoroughfares. The matter was very much discussed in the locality at the time the proposition was made, but the local authorities have since united in consenting to the construction of the line without making any claims against the company for compensation. I think the Bill is one that will do good in two ways, by giving facilities which will enable the company to carry on its operations with economy, and, in the next place, by causing trade which will contribute materially to the revenue of the country by the traffic which will take place over the Northern Railway. I beg to move that the Bill be now read a second time.

Question put and passed.

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

CHINESE IMMIGRATION RESTRICTION BILL.

Second Reading.

The MINISTER OF JUSTICE said: Hon. gentlemen,—The circumstances in connection with what is known as the Chinese question, are so familiar to hon. members, that I think that I may be excused for not making a very long speech on the subject. With regard to this particular Bill, hon. gentlemen will remember that, as recited in the preamble of the Bill, there was a conference held in Sydney, in June last, of representatives from all the Australasian colonies. Queensland was represented by a member of the Legislature, who, at the time, was practically the nominated representative of both political parties. The proceedings of the conference involved the discussion of the best means to protect the Australasian colonies from an incursion of Chinese. It was considered, as I think it is acknowledged on all hands, that the encroachment in large numbers of Chinese on these colonies is very undesirable. The conference, being fully impressed with that idea, went very carefully into the subject and prepared a draft Bill, which they agreed upon as the basis for uniform legislation in the different colonies represented. The Bill recites these circumstances, and a close examination of its provisions will show that the conference acted with great care and wisdom in framing the measure which they proposed to have introduced in their respective Parliaments. The question was not, however, entirely free from difficulties, because international questions, involving not only the Australian colonies but also the relationship between the Imperial Government and China, were more or less concerned; and, under such circumstances, it was necessary that considerable tact and care should be exercised in framing the proposed uniform Australian law. Hitherto there has been imposed upon Chinese coming to this colony particularly, and to some of the other colonies, a poll-tax varying in amount. The imposition of a tax in the shape of a poll-tax is, I believe, about the most obnoxious form of taxation to the Government of the country upon whose subjects it is imposed. The very imposition of a poll-tax conveys with it an offensive term, the weight of which has to be

considered. Of course, it has been established in these colonies that the Legislatures have the power of imposing these poll-taxes, if required; but in dealing with the country whose subjects we propose to tax, it is desirable to do so quite effectually, but still to do it with as little offensive character about the legislation as possible. Now, the scheme of this Bill is to prohibit the carriage into Australian waters of more than a very limited number of Chinese in each ship. The Act is not to apply to certain persons who are mentioned in the 3rd clause, such as persons duly accredited to any Australasian colony as the representative of, or on any special mission from any Government. It does not apply to any person born in Queensland, or to any persons who may be exempted from time to time. The power of exemption is placed in the hands of the Governor in Council. It is not a power of making permanent, but temporary exemptions from time to time in favour of those whom the Governor in Council think it desirable to exempt. The 5th section is one of the most important in the Bill. It says:—

"No ship shall enter any port or place in the colony having on board a greater number of Chinese passengers than in the proportion of one Chinese to every five hundred tons of the tonnage of such ship."

Now, from January to December, 1887, several steamships arrived here from China. The total number was twelve, of a total tonnage of 17,830 tons. Only one of those ships had a tonnage of 1,500 tons and upwards, so that practically speaking, there was only one of those ships that could, under this Bill, have carried three Chinese to Australian waters. I do not think, hon. gentlemen, that a more effective system of excluding foreigners whom we do not desire to have here in large numbers could be well devised. The numbers of arrivals and departures of Chinese to and from this colony are as follows. The number of arrivals were in—

1884	1,496
1885	679
1886	523
1887	307

I think we can safely count upon a large reduction in arrivals under this Bill if it passes into law. The total arrivals during those four years were 3,005. During the same period the departures were as follows:—

1884	1,164
1885	1,238
1886	1,245
1887	881

Giving a total of departures of 4,528. I think under this Bill, especially if adopted in all the Australasian colonies, we may safely regard any danger of an excessive number of Chinese coming here as passed. Section 5 is, of course, the main principle of the Bill. Section 6 is one of detail, requiring the masters of all ships arriving with Chinese to report to the Customs. The 7th section is also one of detail, providing for the enforcement of the principles of clause 5. Each of these sections provide penalties of a considerable amount. Section 5, for instance, provides that when the master or charterer of a ship introduces Chinese passengers in excess of the specified number, he will be liable to a penalty of £500. The master who fails to comply with the provisions of clause 6 is liable to a penalty of £100, and the master who fails to comply with the provisions of clause 7 is liable to the penalty provided in clause 5. Clause 8 provides a penalty for unauthorised landing by water any Chinese otherwise than by a ship duly entered at the Customs, and having on board a greater number than allowed by law. The penalty of £50 is a fixed penalty. It is upon the Chinese, and cannot be reduced by the justices. Section 9 provides for a penalty on Chinese who enter the colony by land without first obtaining a permit from some properly-appointed officer. The same penalty is imposed as in clause 8, and there is a further provision, that, in addition to the penalty, he will be liable to be deported to the colony from which he came. Section 10 is an important one, which has received a great deal of consideration in another place. It provides:—

"Proceedings for the recovery of a penalty for an offence against the provisions of either of the two last preceding sections may be taken from time to time, and as often as may be necessary, and notwithstanding that a period of six months may have elapsed from the commission of the offence, until the whole amount of the penalty is paid. And, until such payment, it shall not be an answer to proceedings for the recovery of the penalty or any unpaid portion thereof that the defendant has already been convicted of the same offence, or that he has suffered imprisonment for default of payment of the penalty or any part thereof."

It has been considered, hon. gentlemen, that imprisonment for six months in addition to the payment of the sum of £50 is really no punishment to some of the Chinese who come here; that they would gladly come and submit to six months in comfortable quarters provided for them, and think they had made a very good bargain, and earned a very good six months' wages by saving £50. It is to deter the Chinese from entering the colony simply by paying £50 that this clause has been introduced. It is, of course, a matter which it is of great importance to bear in mind that this repeated prosecution is not compulsory. The Government of the day would, no doubt, be obliged to enforce the law if the Chinese were really endeavouring to evade the provisions of the Act in any particular, but I do not think that there is any fear that any Government established in these colonies would be likely to make too severe or oppressive a use of the provisions of the clause. There is another reason why this clause has been introduced, and it is this: It has been argued that when we have Chinese prepared to come to the colony, and to pay the sum of £30, the present rate of poll-tax, and in addition pay a sum of £10, or whatever the passage-money from China may be, that they would be quite prepared to make it worth the while of owners of inferior ships to run the risk of running the blockade, and landing their cargoes on Queensland shores. Supposing that that were done, it would perhaps be difficult to catch the ships, our navy not being very large, and we might not be able to exercise a very strict supervision over such ships, but it is not likely that an attempt of that kind will be made if the Chinese are made aware of the fact that by any such attempt they will gain nothing, and that they are liable to be kept for an indefinite period in imprisonment until they have actually paid the sum of £50. It may be thought that that is a provision that would be exceedingly objectionable to a foreign Government, but they can take, I submit, no objection of that kind to this clause. It is merely a law enforced in this colony. We are enforcing a penalty which it is certainly within the power of every Parliament or Government of civilised countries to impose for a breach of its own laws. It is a penalty for the breach of one of its own internal laws, and a penalty which no Government has any ground for taking exception to. The 11th clause provides that—

"Every ship, on board of which Chinese are transhipped from any other ship and brought to any port or place in this colony, shall be deemed to be a ship bringing Chinese into the colony from parts beyond the colony, and shall be subject to the provisions of this Act."

The 12th clause provides that the Treasurer may order the detention of the ship by means of which the master has rendered himself liable to a penalty. There are other provisions for the

officer detaining a ship and obtaining a writ of assistance, and that the ship may be ordered to be sold in order to enforce the penalty which has been imposed. The 13th section gives power to the Governor in Council to make regulations for carrying out the Act, but it is provided that a copy of these regulations shall be laid before Parliament within fourteen days after being made if Parliament is in session, or fourteen days after the commencement of the session. The 14th clause is a formal matter, providing for the proof of persons being Chinese. The 15th clause provides the mode of recovering penalties, and the 16th clause the mode of disposing of the penalties. This Bill, as I have already stated, is almost entirely the outcome of the conference which was held in Sydney. We are to some extent committed to legislation of this character, but it is legislation which I think, irrespective of the conference, or of the resolutions arrived at there, commends itself in every way to the people of this colony. A measure of a similar character is now being considered in the South Australian Parliament, and although there is a question pending between the two Houses with reference to the tonnage limitation, still that does not appear to be any reason why we should not proceed with legislation which commends itself otherwise to us, and which, even if the South Australian Parliament does not pass in the form in which it was introduced, will certainly place us in a better position with regard to the exclusion of Chinese than we have hitherto occupied. I beg to move that the Bill be now read a second time.

The HON. B. B. MORETON said: Hon. gentlemen,—In rising to make a few remarks on this Bill, I may say that I, for one, am very glad that the present Government have brought in this measure because, during the last election, this question of the introduction of Chinese was one that was very prominently before the electors of this colony. At the same time, looking at what is taking place in another colony, I think it would be just as well if this measure was left a little longer before us until we know what is to be the attitude taken by South Australia on the question; whether the Legislative Assembly of that colony will take the same view as the Legislative Council has done, and reduce the tonnage limitation from one to every 500 tons to one to every 50 tons. If so I think it would be necessary for us to take other steps than those now proposed, and reinstitute the poll-tax. There cannot be the slightest doubt that although this Bill may be more effective in keeping out Chinese than the present law, it will not be sufficient to keep out Chinese from the other colonies if the South Australian Government afford them the means of coming across our border. Although I shall not offer any opposition to this Bill, I still think it is a question for the consideration of the House, whether it would not be well to postpone the discussion of this Bill until we see what attitude South Australia assumes. If the Legislative Assembly of that colony maintains the view of the Legislative Council, then I would be one for pressing an amendment providing for a poll-tax upon Chinese.

The HON. P. MACPHERSON said: Hon. gentlemen,—While approving of the provisions of this Bill generally, and of restrictions being placed on Chinese immigration, I must say, for my own part, that there is one clause that I most decidedly object to. I can scarcely believe that the 10th clause could have been agreed upon by the conference in the shape in which it appears in this Bill. The idea of legislation for perpetual imprisonment is most repugnant to English law, and I will do my very best, when the Bill goes into committee, to have that clause expunged from the Bill. I shall say nothing more about the Bill, and I cannot express myself more strongly with reference to the 10th clause, than by saying that it seems to be like a relic of the dark ages.

The MINISTER OF JUSTICE said: Hon. gentlemen,—I believe I omitted to call the attention of the House to the fact that the 10th clause, which has been referred to, was not included in the draft Bill prepared by the conference, but was introduced in the other branch of the Legislature.

The HON. W. FORREST said: Hon. gentlemen,—I am as anxious to see Chinese prevented from landing in Australia as any man in this House, or any member of any Legislative Assembly in the Australian colonies. I have long foreseen the danger to which we were exposed by our proximity to a nation like China; but, while I am most anxious to prevent the Chinese from landing here, I must offer my protest against what I consider to be offensive legislation, and particularly against the offensive remarks which have been made with reference to the Chinese, and the Chinese nation generally, at different times—remarks, I think, of which we are all perfectly aware. China is not a power to be despised—very far from it. She possesses a population estimated variously at from 400,000,000 to 600,000,000, and she has a very good army and a very fair navy, and however we may attempt, in legislation of this sort, to tone it down, we cannot possibly pass such a measure as this without including in it something which is offensive to the nation legislated against. I think we ought to endeavour to legislate as mildly as we possibly can, so long as our legislation is effective. I agree with every word that has fallen from the Hon. Mr. Macpherson with regard to the 10th clause, and, in agreeing with him, I must of necessity thoroughly disagree with the Minister of Justice, because I look upon such legislation as that contained in clause 10 as most barbarous and inhuman, as well as most offensive. Not only is China a great power, but she is a friendly one, and no nation should go out of its way to make enemies. I think it is most unwise to do anything of that sort, and I shall certainly be very glad to see the barbarous punishment provided for in clause 10 eliminated from the Bill. I can only say that if such a provision does pass, it will be a discredit to our statute book; in other respects I am in favour of the measure. I think it would be a very serious matter for us if Chinese were to come down here in overwhelming numbers; and I am not influenced in my opinion by public clamour, or the belief of any section of the community. I saw long ago—as long as fifteen years ago—the danger we were in, and discussed the question then. I saw our danger, but I did not see at that time how it was to be prevented. If we can prevent it by legislation, and stop the influx of Chinese, I shall be very pleased; but, at the same time, I would rather see a few Chinese come over our border than that such a clause as clause 10 should remain in the Bill.

The HON. J. SCOTT said: Hon. gentlemen,—I, as well as other hon. gentlemen who have spoken, have a decided feeling against any large number of Chinese coming into this colony. I always have had that feeling, because I foresee the great difficulty that is likely to arise. At the same time, I do not think they ought to be excluded altogether; and in legislating against them I do not think we ought to go out of our way to make the penalties too severe. In the 5th clause there is a penalty to this effect:—

"If any ship enters any port or place in the colony, having on board any Chinese passenger in excess of such number, the owner, master, or charterer of the

ship shall, on conviction, be liable to a penalty of five hundred pounds, the amount whereof shall not be reduced by the justices, for each Chinese passenger in excess of such number; and in default of payment shall be liable to be imprisoned, with or without hard labour, for the period of twelve months."

Now, supposing a vessel has to put into a port through stress of weather, there is no provision made for such a contingency. The master in that case would be fined £500 for every Chinaman in excess of the lawful number, and again in clause 6 there is something of the same sort, because it is stated that a stowaway is to be deemed a passenger, and the penalty inflicted; so that if a vessel of 1,500 tons came down here with three Chinese passengers, and a stowaway on board, the captain could be fined. But what is to be done with the stowaway, or what is the captain to do when he discovers him on board? Is he to go back to China after he has been ten days or a fortnight on the voyage, or is he to put the man on a desert island? I think some alteration ought to be made in those two clauses, and as to clause 10, I think it is simply monstrous. I do not believe there was ever such a clause inserted in any Bill in any legislature that the British Dominions had anything to do with.

The HON. W. F. TAYLOR said: Hon. gentlemen,—I think the action of the South Australian Council has placed this matter in a somewhat awkward position, and it might be advisable if we deferred the consideration of the Bill until next week, because if the Council carry their point, and allow one Chinaman for every 50 tons of a vessel's burden to be admitted into the Northern Territory, we have no protection whatever against the whole colony being inundated by these people. This Bill removes the poll-tax, which was a great protection, and we shall virtually have no protection.

The MINISTER OF JUSTICE: There is a penalty of £50.

The HON. W. F. TAYLOR: Yes, there is a £50 penalty, but that will not catch these people. The difficulty is one that it is not easy to get over. The poll-tax was certainly a measure of restriction, but if we pass a law allowing one Chinese for 500 tons to come to the colony, and South Australia one for every 50 tons, there will, I am afraid, be very great difficulty in excluding Chinese. If a Chinaman comes across the border the penalty of £50 proposed by this Bill cannot be inflicted until it is proved that he entered the colony surreptitiously. But in the case of the poll-tax a certificate or receipt for that tax can easily be produced, and then the Chinese are not liable to the penalty. In that case there is nothing to prove on the arrest of the Chinaman, but under this Bill it will be necessary to prove that he has not been in the colony before, which would be a very difficult matter, as Chinamen are so much alike that they are not easily distinguished by Europeans. I know that in collecting ordinary miners' rights on the goldfields great difficulty has been experienced by the wardens for that very reason. Chinese are so much alike, and they all give the same answer, "no savee," that it is very hard to distinguish them. How we are to convict Chinese coming across the border I cannot imagine, as there is nothing to show that they have not been in the country before. I do not see how the difficulty is to be got over, and I think it would be very much better to retain or re-impose the poll-tax, if we are not going to have concerted action on the part of all the colonies.

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.

RAILWAYS BILL.

COMMITTEE.

On the motion of the MINISTER OF JUSTICE, the Presiding Chairman left the chair, and the House resolved itself into a Committee of the Whole, to consider this Bill in detail.

Preamble postponed.

Clause 1 to 9, inclusive, passed as printed.

On clause 10, as follows:—

"The commissioners shall, during their respective continuance in office, receive the following clear annual salaries, that is to say:—

1. The chief commissioner three thousand pounds;
2. Each of the other commissioners one thousand five hundred pounds;

All such salaries shall be a charge upon and paid out of the Consolidated Revenue, which is hereby permanently appropriated for that purpose."

The HON. B. B. MORETON said he noticed that provision was made for the appointment of a deputy commissioner in certain cases. How would the deputy-commissioner be paid? Would he receive a separate salary, or be paid a portion of the salary of the commissioner for whom he was acting?

The MINISTER OF JUSTICE said that would depend upon circumstances. If it was a case of illness of the commissioner, probably the Governor in Council would provide additional money for the payment of the salary of the deputy. If it was a case of suspension, followed by dismissal, it would depend upon circumstances whether a separate salary would be provided or the deputy paid from the money appropriated for the salary of the commissioner.

Clause put and passed.

On clause 11, as follows:—

"1. A commissioner may be suspended from his office by the Governor in Council, but shall not be removed from office except as hereinafter provided:—

(*a*) If any commissioner shall be so suspended the Minister shall cause to be laid before the Legislative Assembly a full statement of the grounds of such suspension within seven days thereafter if Parliament be in session and actually sitting, and when Parliament is not in session or not actually sitting, within seven days after the commencement of the next session or sitting.

(*b*) A commissioner suspended under this section shall be restored to office unless the Legislative Assembly, within twenty-one days from the time when such statement shall have been laid before it, declares by resolution that the said commissioner ought to be removed from office, and if within the said time the Legislative Assembly so declares, the said commissioner shall be removed by the Governor in Council accordingly.

The HON. W. FORREST said that when the Bill was going through the second reading the Hon. A. C. Gregory intimated that he intended to propose an amendment on that clause. He (Hon. W. Forrest) himself spoke against the provision, as did several other members of the Committee. In fact nearly all the members who spoke were strongly opposed to that clause, as it provided for the exclusion of the Council in matters affecting the suspension or dismission of a commissioner. Had the Hon. A. C. Gregory been in his place he would have moved an amendment on the clause. He (Hon. W. Forrest) had been asked at the last moment to do that in his behalf, and although he had had very little time for preparation, he would propose an amendment for the purpose of testing the opinion of the Committee. He regretted that some members who spoke on the second reading were absent. Before proposing his first amendment

he would read the clause as it would stand, if his suggestion were adopted. It would read as follows :—

1. A commissioner may be suspended from his office by the Governor in Council, but shall not be removed from office except as hereinafter provided :—

(*a*) If any commissioner shall be so suspended the Minister shall cause to be laid before both Houses of Parliament a full statement of the grounds of such suspension within seven days thereafter if Parliament be in session and actually sitting, and when Parliament is not in session or not actually sitting within seven days after the commencement of the next session or sitting.

(*b*) A commissioner suspended under this section shall be restored to office unless the Legislative Council and Legislative Assembly within twenty-one days from the time when such statement shall have been laid before them respectively, severally declare by resolution that the said commissioner ought to be removed from office, and if within the said time the Legislative Council and Legislative Assembly so declare, the said commissioner shall be removed by the Governor in Council accordingly.

One great object in appointing those commissioners was to make them non-political officers, so that they would be able to carry out their duties effectively without any political interference. He failed to see, as he had said before, that they would be non-political officers if the question of their removal was simply to be left to the decision of the Legislative Assembly, as that virtually meant the Ministry of the day, because they could always command a majority in the Assembly. He moved that the words "the Legislative Assembly" in the 2nd line of subsection (*a*) be omitted with the view of inserting the words "both Houses of Parliament."

The MINISTER OF JUSTICE said the question raised by the amendment was, no doubt, one that required their most careful consideration. The hon. gentleman had not exactly described the position in which it was intended to place the commissioners when he stated that they were to be non-political officers. He took it that by that expression the hon. gentleman meant that the commissioners should not be under the political control of the Parliament of the country. The scope of the Bill was not exactly that. Its object was to improve the present system of railway management, and it was provided that the commissioners for the time being should not be under the immediate political control of Ministers, but that whenever there was a difference of opinion between Ministers and the commissioners, public discussion of the subject should be insured by submitting the matter to the Legislative Assembly. The will of the Assembly was to be expressed either for or against the Ministry. The position of the present Commissioner for Railways was that he was liable to dismissal at any moment by the Minister in charge of his department, if he did not carry out the instructions of the Minister. If the Commissioner refused to carry out such instructions, he would do so subject to the consequences, which would naturally be either suspension or loss of office. But here it was intended that the commissioners should at any rate have an expression of opinion from the representatives of the people in the other branch of the Legislature, as to whether the points of difference between the commissioners and the Ministry were such as to justify their suspension or dismissal. As he had said in the discussion on the second reading, that Committee had reserved to them every right and every control they possessed at the present time. There was not one iota of the functions they had at the present moment taken away from them by that Bill. The amendment proposed would place the commissioners in the position of a judge or the Auditor-General, but they should remember that the Auditor-General was an officer of both Houses of Parliament, while the commissioners would be officers of the Civil service, and it was not intended by that measure to make them officers of both Houses of Parliament. The office of Commissioner for Railways at the present moment was not a political office; it was a permanent office, but the head of his department occupied a political office. He would ask hon. gentlemen to consider very carefully what would be the probable consequences of the adoption of the amendment which had been proposed. Let them assume for a moment that the Legislative Assembly had agreed that the action of the Ministry in suspending a commissioner was correct, and that the Council did not agree with it, what provision was proposed to be made for a conflict between the two Houses under such circumstances? Was it reasonable to suppose that the members of the Legislative Assembly, who were specially charged with the administration of the finances of the colony, and who had to find the money for the payment of the salaries of the commissioners, would submit to having an important branch of the service like the Railway Department placed under the control of commissioners who had been condemned by the Assembly? The amendment virtually amounted to this: that it would give to the Council, which was not charged with any functions respecting details of the public revenue or expenditure, the power to impose upon the Assembly a commissioner whom they had condemned. It would put the Assembly in the obnoxious position of being obliged to find money for the payment of men whom they themselves considered worthy of dismissal. Assuming that that state of affairs arose, what would be the ultimate consequences? Did hon. gentlemen think that the Legislative Assembly, who were the representatives of the taxpayers of the colony were likely to submit to such a state of things? He contended that it was unreasonable to suppose anything of the kind, and in the very best interests of that Committee and its functions, he advocated that the clause be adopted as introduced. A collision between the two Chambers on such a subject would invariably have but one result. The Ministry of the day—he was not now speaking of the present or any particular Ministry—having a large following in the Assembly must, in the end, succeed against what was generally termed the nominee branch of the Legislature. Hon. gentlemen, of course, always held that the Council was, indirectly, a representative Chamber; still they must bear in mind that it was not what was called a popular House—one that was elected by the people from Parliament to Parliament. If, therefore, the two Houses came into conflict, a weak Ministry in the Assembly, which had only sufficient strength to carry a motion supporting their action, would be made stronger, and a strong Ministry would be made stronger by the support which would be given to them in such a contest with the Council. Looking at the question in the interest of that Chamber, and looking at it from all points of view, he thought it was very undesirable that they should lay such a roadway as would lead to unsatisfactory disputes, and collisions, which must lead to a loss of influence by the Legislative Council. He maintained that it would be far better to adopt the measure in its entirety than to introduce a new system, whereby troubles and difficulties between the two branches of the Legislature were likely to arise. The Bill reserved to Parliament the control of the railway policy of the country—the control of the policy of railway construction. It would secure to Parliament, he hoped, invaluable assistance from the investigations of the commissioners with respect

to any projected line of railway; but the final decision as to whether the line should or should not be constructed would rest entirely with Parliament, including both the Legislative Council and Legislative Assembly. The Council had never on any occasion, at any rate during his experience, had to consider the minor details of expenditure or revenue in connection with railways, though their approval of the construction of the lines had always been required, and he could not conceive how such a question could come within the functions of that Committee.

The HON. W. FORREST: That is not the question.

The MINISTER OF JUSTICE said it was not the question, but it had a very important bearing on the question raised by the amendment. The hon. gentleman considered that that measure, to a certain extent, derogated from the functions of that Committee. He (the Minister of Justice) had shown conclusively that it did not, in the slightest degree, take away from the functions which the Council at present enjoyed. The amendment which it was proposed to make in that clause would impose upon the Committee a function which they might exercise, but if they did not exercise it in accordance with the views of the other branch of the Legislature it would necessarily lead to grave difficulties. Nor was it likely that the exercise of that function would produce any good or useful result. He, therefore, submitted that it would be far better not to adopt the whole of the amendments suggested. With regard to the particular amendment now before the Committee, there was practically no objection to it, as all papers and reports were laid before both Houses of Parliament. He had addressed his remarks chiefly to the subsequent amendments that it was intended to propose, with the view of requiring a declaration from the Council, as well as from the Assembly, before a commissioner could be dismissed from his office. As a matter of course, those reports would be laid on the table of the House, but if they were not hon. members always had their remedy. He trusted that the matter would receive the fullest discussion, and that the conclusion the Committee arrived at would be one that would tend to the satisfactory disposal of the business of the country without unnecessary disputes arising between the two branches of the Legislature.

The HON. T. L. MURRAY-PRIOR said there was no doubt that Ministers had paid considerable attention to the Bill, and the Minister of Justice argued from a Ministerial standpoint. The question really was whether the commissioners should have even justice done to them, and it was for them to see that justice was done. In the first place they were departing entirely from the present system, and the Bill was said to be based on the Victorian Act. Now, he would ask why a departure had been taken from the Victorian Act? If he understood the Hon. W. Forrest correctly, he wished to place the Bill on the same footing as the Victorian Act.

The HON. W. FORREST: Not quite.

The HON. T. L. MURRAY-PRIOR said he thought, before they carried an amendment of the sort proposed, it was nothing but right that they should understand exactly the position they were in. If they carried the amendment without knowing what was coming after it, they should be very likely all astray. He would, therefore, suggest that it would be better to postpone the clause, and the hon. gentleman could afterwards let them know exactly the purport of the amendments he would propose, and how the clause would be altered. Until that was done he did not see how they could agree to the alteration. The best system they could carry out would be to follow the Victorian Act, and in that way no harm could be done. He understood that their late lamented friend, the Hon. F. T. Gregory, had been prepared to deal with the question.

The HON. W. FORREST: The Hon. A. C. Gregory was prepared to move amendments.

The HON. T. L. MURRAY-PRIOR said that gentleman was not here. They had a very thin House, the matter was of very great importance, and under those circumstances they could either defer the consideration of the clause until a later period of the evening, or until to-morrow, when a greater number of hon. gentlemen would be in their places. The clause seemed to him to be one of the principal clauses in the Bill.

The HON. W. FORREST said, so far as he was concerned, he had no objection to the clause being postponed, but he wished to reply to some remarks of the Minister of Justice. The hon. gentleman said there was nothing in the Bill that would deprive that House of any privilege that it had had in times past. On that point he joined issue with him most decidedly. He said it would deprive the House of a privilege that it had always possessed, and which had never been denied to it. Take the case of any officers removed from Ministerial control, such as the Auditor-General or the Land Board. Why, the Bills appointing them had come before the House with a distinct provision that those officers could not be removed unless by consent of both Houses of Parliament, but in the case before them there were officers in exactly the same position, and it was proposed that the House of Assembly only should deprive them of office. Now, what was the object of having a second Chamber at all, unless it was to act as a sort of check on hasty legislation and give time for reflection? The very scheme of the Bill would show that its framers were aware of the necessity for reflection; because if the chief commissioner disagreed with the other two they were not at once to come to a conclusion. They were to adjourn for twenty-four hours; and if they continued to disagree, then only was the chief commissioner's decision to be acted upon. But it was proposed that there should be no check whatever. The Ministry of the day suspended the commissioners, and the matter went before the Assembly, and without any check being placed upon that Chamber by the Council, the commissioners were either to be dismissed or to be reinstated. It was to prevent that sort of thing that he proposed his amendment. He must say that he could not agree with the Minister of Justice in his inferential reflection upon that House. It was a reflection upon the House when they talked about its not being the popular Chamber. The matter presented itself to his mind in this light: Were they not just as capable of dealing fairly and reasonably with a question of suspension or dismissal as the average member of the other Chamber? Comparisons were odious in many instances, and he should not carry the comparison further than by saying he believed they were quite as capable. They would not be carried away by popular clamour. What had happened in Victoria? Was it forgotten that not very long after the appointment of the Commissioners there, a very powerful section of the House used to declare, night after night, that the Commissioners had too much power? The fact was that those persons found out that they could no longer get their friends into vacant billets. They could no longer recommend political appointments. The Commissioners insisted upon doing their business in their own way, and as soon as the

effect was felt, that powerful section began to insist on the Commissioners being deprived of some of their power. Were they in Queensland on a higher pedestal than Victorians? Would the same thing not happen here? It might become necessary for the commissioners to dispense with the services of high officials, and do other acts which would make them highly unpopular, and they should be guarded in every possible manner. On the second reading he had pointed out that they must not expect the same results to immediately follow the passage of the measure as had followed the passage of a similar measure in Victoria, for the reason that the conditions of the two colonies were so different. With long railways and sparse population they would find out that, no matter how the commissioners tried, they would not at first make the railways a great commercial success. Great reforms would be necessary, and if they carried out their duties conscientiously and carefully, they must necessarily become unpopular. The 23rd clause of the Bill said:—

"1. It shall be the duty of the commissioners to maintain the railways and all works in connection therewith in a state of efficiency, and to work the same in such manner as will best conduce to the general public benefit"—

and it would be found that the moment the commissioners tried to work the railways on sound business principles there would arise a popular clamour. It was not for the purpose of bringing the two Houses into conflict, but to prevent anything hasty being done, and to prevent great injury to the country generally, that he proposed his amendment. He would not have objected if the Bill had been brought forward in another way. In Victoria there was a safeguard, because if the two Houses disagreed upon the question of suspension or dismissal the Assembly must pass the same resolution twice within six weeks, before their decision could prevail over that of the Council. At all events the matter was referred to the two branches of the Legislature, and the six weeks interval gave time both for reflection, and for the country to express an opinion. He had asked the question on the second reading of the Bill, whether any man in the other branch of the Legislature would say for a moment that that House was anything more than the Ministry of the day. He knew it to be a fact, and spoke under the influence of the opinion expressed by the men themselves. He had known men to vote against their own strong convictions, because they dare not face another election. The Ministry would say: "If you do not support us we will resign," and how many men would be found to say: "Go and resign then?" They were coerced into voting by popular clamour, and by the influence of the Ministry of the day; and if the clause passed as it stood in the Bill it would simply put the new commissioners in the same position as the Commissioner for Railways was in now, and make them the servants of the Ministry of the day. If the Bill provided that the Governor in Council could suspend or dismiss the commissioners, perhaps he might have let it pass, but he protested against that make-believe, because it was asking too much of any sensible body of men to try and make them believe that the commissioners were being put in a safe position. For those and other weighty reasons that had commended themselves to him, he intended to insist upon his amendments, but at the same time, if it was considered advisable to postpone the clause, he had no objection at all.

The HON. F. T. BRENTNALL said he should like to point out particularly the precedents they had for the action taken by the Hon. W. Forrest. If the exclusion of the Legislative Council from that tribunal of appeal became law, it would, he thought, for the first time occur that a distinction had been made between the two Houses of the Legislature, in a case in which he thought the two Houses ought to be of co-equal standing, and have equal functions. If they referred to the Act appointing their Auditor-General they would find in it a clause very similar in construction to the clause in the Victorian Railways Administration Act, to which reference had been made. The two clauses, except, of course, in the necessary alterations, were almost identical. Now, in the case before them, an important departure was being taken. A new system of management in connection with the railways of the colony was being instituted; three commissioners were to be appointed. The chief commissioner would have, he believed, a larger salary than any other official in the colony, with the exception of the Governor himself. The other two subordinate commissioners would have each a salary larger than Ministers of the Crown were receiving, and were they to form a commission of that weight and importance and costliness, without giving both Houses of the Legislature the same influence with regard to the final dismissal of any member of that commission? In order that hon. gentlemen might have the matter clearly before them, he would read the 28th clause of the Audit Act:—

"The Auditor-General shall hold his office during good behaviour, and shall not be removed therefrom unless an address, praying for such removal, shall be presented to the Governor by the Legislative Council and Legislative Assembly, respectively, in the same session of Parliament; and at any time when Parliament is not sitting it shall be lawful for the Governor in Council to suspend the Auditor-General from his office for inability or misbehaviour, and when, and so often as the same shall happen, a full statement of the cause of such suspension shall be laid before both Houses of Parliament within seven days after the commencement of the next session thereof, and if an address shall, at any time during that session, be presented to the Governor by the Legislative Council or Legislative Assembly praying for the restoration of such Auditor-General to his office, such Auditor-General shall be restored accordingly, but if no such address shall be so presented it shall be lawful for the Governor in Council to confirm such suspension, and to declare the office of such Auditor-General to be, and the same shall thereupon become and be vacant, as if such Auditor-General were naturally dead."

Now, there was an officer, with a salary of £800 a year, who could not be removed from his office without an appeal to both Houses of Parliament. If they turned now to the Land Board they found two commissioners receiving £1,000 a year each. Those gentlemen could not be removed without the concurrence of both Houses of Parliament. He would read the 13th section of the Crown Lands Act of 1884:—

"The members of the board shall hold office during good behaviour, and shall not be removed therefrom, unless an address praying for such removal shall be, presented to the Governor by the Legislative Council and Legislative Assembly, respectively, in the same session of Parliament.

"Provided that at any time when Parliament is not sitting the Governor in Council may suspend any member of the board from his office for inability or misbehaviour, in which case a statement of the cause of suspension shall be laid before both Houses of Parliament within seven days after the commencement of the next session thereof. If an address shall during that session be presented to the Governor by the Legislative Council or Legislative Assembly, praying for the restoration of the suspended member to his office, he shall be restored accordingly; but if no such address shall be presented, the Governor in Council may confirm such suspension, and declare the office of the member to be, and the same shall thereupon become and be vacant as if he were naturally dead."

That evidently had been copied from the Audit Act, and the language was much the same. In order to show the similarity of those different provisions in different Acts—two Acts of this

colony and the Railway Administration Act of Victoria—he would read the 14th clause of the Victorian Act:—

"The commissioners shall hold their offices during good behaviour for the term of seven years hereinbefore provided, and shall not, save as in this Act otherwise provided, be removed therefrom unless an address praying for removal be presented to the Governor by the Legislative Council and the Legislative Assembly, respectively, in the same session of Parliament, or by the Legislative Assembly alone in two consecutive sessions thereof, provided that no less than six weeks shall intervene between such addresses when made by the Legislative Assembly alone as aforesaid; and at any time when Parliament is not sitting it shall be lawful for the Governor in Council to suspend any commissioner from his office for inability or misbehaviour, and when and so often as the same happens a full statement of the cause of such suspension shall be laid before both Houses of Parliament within seven days after the commencement of the next session thereof, and if an address shall at any time during that session be presented to the Governor by the Legislative Council or the Legislative Assemoly, praying for the restoration of such commissioner to his office, such commissioner shall be restored accordingly; but if no such address be so presented, it shall be lawful for the Governor in Council to confirm such suspension and to declare the office of such commissioner to be and the same shall thereupon become and be vacant as if such commissioner were naturally dead."

It would be seen, therefore, how very similar the wording of those clauses was in three different Acts. Indeed, they might have been drawn by the same hand, so strong was the resemblance. If, therefore, on those different occasions it had not been thought in any way necessary to derogate from the co-equal influence of the Legislative Council with the Legislative Assembly in dealing with cases of that kind, why should an innovation be made at that period? Could any sound and sufficient reason be brought forward now that was not in existence in 1884, or when the Audit Act was passed? Had the circumstances at all altered? No alteration had taken place in the relations of the two Chambers, nor in the exact functions of that particular branch of the Legislature; and he really did not see why an attempt should be made in that Bill—a Bill dealing with a matter of very much more importance than the Audit Act or the Land Act dealt with—to curtail the privileges of that Chamber. If it were advisable and necessary, at the two periods he had referred to, that the Legislative Council should be represented in the tribunal to which a final appeal should be made, it was certainly not necessary that they should now be excluded from that position in a similar tribunal. He hoped the Minister of Justice would consent to the postponement of the clause, in order that it might be thought over a little more carefully, and, with a larger number of hon. members present, some safe and wise conclusion might be come to on a subsequent day.

The MINISTER OF JUSTICE said in deference to the wishes expressed by some hon. gentlemen, and there being so few members present, he would move that the clause be postponed.

Question put and passed.

Clauses 12 and 13 passed as printed.

On clause 14—"Conduct of business"—

The MINISTER OF JUSTICE said as that clause might be affected by the conclusions arrived at on clause 11, he would also move that it be postponed.

Question put and passed.

Clauses 15 to 25 inclusive, passed as printed.

At 6 o'clock,

The CHAIRMAN said: I will resume the chair at 7 o'clock.

On the Committee resuming at 7 o'clock, the Clerk of the House announced that the Chairman of Committees, owing to illness, was unable to attend to his duties.

The PRESIDING CHAIRMAN then took the chair.

The MINISTER OF JUSTICE moved that the Hon. Peter Macpherson act as Chairman of Committees for this day.

Question put and passed.

On the motion of the MINISTER OF JUSTICE, the Presiding Chairman left the chair, and the House resolved itself into a Committee of the Whole to further consider the Railways Bill.

Clauses 26 to 29, inclusive, passed as printed.

On clause 30, as follows:—

"The commissioners shall from time to time apply in writing to the Minister for additional stores, plant, material, rolling-stock, stations, sheds, and other accommodation which, in the opinion of the commissioners, may be required to enable them to meet the traffic requirements, or ensure the efficient working of the railways."

The HON. W. FORREST said he did not quite understand what the effect of that clause would be. Supposing the Minister did not grant additional stores, plant, material, and rolling-stock when the commissioners applied for them to enable them "to meet the traffic requirements or ensure the efficient working of the railways," what would happen? How were the commissioners to work the railways in such a manner as would "best conduce to the general public benefit"?

The MINISTER OF JUSTICE said if the Minister did not see his way to grant those things the commissioners could not get them. If they were to give the commissioners power to commit the country to unlimited expenditure for rolling-stock and other material and stations, it would throw the finances of the colony into confusion. There must be some control over the commissioners. The Government could not be expected to give up in any way their control over the finances of the colony. The same provision was in force in both Victoria and New South Wales.

Clause put and passed.

Clauses 31 to 35, inclusive, passed as printed.

On clause 36—"The commissioners may make contracts, etc."—

The MINISTER OF JUSTICE said the Hon. A. C. Gregory pointed out a clerical or printer's error in that clause during the discussion on the second reading of the Bill. The proviso read as follows:—

"Provided that no contract for the supply of fuel, or materials, or labour, or for providing locomotive engines or other motive or tractive power for places outside Queensland, shall be made without the previous sanction of the Governor in Council."

It was evident that it was intended that the word "for" before "places," should be "from." He moved that the word "for" be omitted, with the view of inserting "from."

The HON. W. FORREST said he merely rose to refer to a matter that bore on the discussion that had taken place earlier in the evening—namely, the necessity for a court of revision in dealing with Bills. If that word "for" had been left in the clause, the intention of the framers of the proviso would have been completely defeated.

Amendment agreed to; and clause, as amended, put and passed.

Clauses 37 to 72, inclusive, passed as printed.

On the motion of the MINISTER OF JUSTICE, the House resumed; the CHAIRMAN reported progress, and obtained leave to sit again to-morrow.

ADJOURNMENT.

The MINISTER OF JUSTICE said: Hon. gentlemen,—The only other matter on the paper is the second reading of the Queensland Permanent Trustee, Executor, and Finance Agency Bill, which measure is in the charge of the Hon. A. C. Gregory, and as he is absent, under circumstances which we all very much regret, I beg to move that the House do now adjourn.

Question put and passed, and the House adjourned at twenty-one minutes past 7 o'clock.