

Queensland



Parliamentary Debates  
[Hansard]

**Legislative Council**

**FRIDAY, 26 OCTOBER 1888**

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## LEGISLATIVE COUNCIL.

Friday, 26 October, 1888.

Message from the Legislative Assembly—Day Dawn Block and Wyndham Branch Railway.—Illness of the Hon. D. F. Roberts.—Acting Chairman of Committees.—Day Dawn Block and Wyndham Gold Mining Company's Railway Bill—committee.—Railways Bill—committee.—Adjournment.

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

## MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

## DAY DAWN BLOCK AND WYNDHAM BRANCH RAILWAY.

The PRESIDING CHAIRMAN announced that he had received a message from the Legislative Assembly, inviting the Council's approval of the plan, section, and book of reference of the Day Dawn Block and Wyndham Gold Mining Company's branch line of railway at Charters Towers, in length 64 chains.

## ILLNESS OF THE HON. D. F. ROBERTS.

The PRESIDING CHAIRMAN said: Hon. gentlemen,—I have to inform the House that I have received the following certificate from Dr. Cannan:—

"Brisbane, October 25th, 1888.

"I certify that the Hon. D. F. Roberts is suffering from extreme nervous depression, and not equal to undertake his parliamentary duties for the next fortnight.

"K. CANNAN,

"Medical attendant."

The Hon. F. H. HART said: Hon. gentlemen,—With the permission of the House I beg to move, without notice, that leave of absence for a fortnight be granted to the Hon. D. F. Roberts.

Question put and passed.

## ACTING CHAIRMAN OF COMMITTEES.

The MINISTER OF JUSTICE moved that the Hon. J. C. Heussler be appointed Acting Chairman of Committees, during the absence of the Chairman, the Hon. D. F. Roberts.

Question put and passed.

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

## COMMITTEE.

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

Preamble postponed.

On clause 1—"Interpretation"—

The Hon. B. B. MORETON said the word "commissioner" was used in that clause, it being stated that "the commissioner shall mean the Commissioner for Railways." By the time that measure became law they would have passed the Railways Bill, under which the railways would be managed by three commissioners. Would it not be better to alter "commissioner" in that clause to "commissioners?"

The MINISTER OF JUSTICE said the Railways Bill, which was now before the Council, assuming that it passed, would not come into operation until the commissioners were appointed, and it distinctly provided that every duty, or liability, or function, imposed upon the Commissioner for Railways should be vested in the new commissioners when they took office. The point that the hon. gentleman had called attention to had not escaped his notice, but on reference to the Railways Bill he found that it was fully provided for.

The Hon. W. FORREST said he wished to point out more fully that subsection 3 of clause 2 of the Railways Bill met the case referred to by the Hon. B. B. Moreton. That clause stated that—

"Whenever in any other Act reference is made to the Commissioner for Railways, such reference shall be taken to be to the commissioners appointed under this Act."

The Hon. B. B. MORETON said the hon. gentleman had pointed out what he had mentioned himself. He (the Hon. B. B. Moreton) had simply drawn attention to the fact that the Railways Bill might become law before the measure under consideration, and that, therefore, the provision in the Railways Bill might not apply. However, he was quite satisfied with the explanation given by the Minister of Justice.

Clause put and passed.

Clause 2—"Authority to construct branch lines"—passed as printed.

On clause 3—"Exercise of powers under Railway Acts, and works for benefit of owners."

The Hon. B. B. MORETON said he wished to call attention to the fact that before that Bill had become law they had had placed upon the table of the House the plan, section, and book of reference of that very railway. He did not know whether the members of the other Chamber made certain that everything they sent up to the Council would be passed, but he certainly thought that the plan should not have been laid on the table until the Committee had passed the Bill.

The MINISTER OF JUSTICE said he did not propose to take any steps with regard to the plan until they had passed the Bill.

Clause put and passed.

Clauses 4 to 7, inclusive, passed as printed.

On clause 8, as follows:—

"The company may, subject to such terms and regulations as the Governor in Council may from time to time prescribe, require the commissioner to carry the quartz or other material and waggons of the said company over any portion of the Northern Railway."

The Hon. B. B. MORETON said it was provided in that clause that the company might require the commissioner to carry their quartz or other material over the Northern Railway subject to such terms and regulations as might be prescribed by the Governor in Council. The great object of the Railways Bill was to place the management of the railways under the control of commissioners, and not under that of the Governor in Council. He thought the Government should only be referred to when some difficulty arose between the company and the commissioners.

The MINISTER OF JUSTICE said the object of that clause was to provide for the settlement of disputes between the Commissioner and the company with regard to the conveyance of quartz and other material of the company over the Northern Railway. The company might require the Commissioner to carry their goods, and if he refused they could apply to the Governor in Council to prescribe regulations under which the commissioner should carry quartz or other material, and waggons of the company. The object of the clause was to meet the difficulty the hon. gentleman had referred to.

The HON. W. D. BOX said the clause stated that the company might require the Commissioner to carry quartz or other material of the company under such terms and regulations as the Governor in Council might from time to time prescribe. The company, therefore, under that provision, might go beyond the commissioners altogether, and say, "Our transactions are with the Governor in Council." The Northern Railway would be in the hands of the commissioners, and, if the company could not agree with the commissioners, the matter was to be decided by the Governor in Council. It appeared to him that the clause should read, that the material of the company should be carried on the Northern Railway subject to such terms and regulations as might be prescribed by the commissioners.

The MINISTER OF JUSTICE said he could not understand the difficulty that appeared to suggest itself to the mind of the hon. member. If the company wanted their quartz carried upon the Government line of railway, they must first of all apply to the Commissioner, or whoever had charge of the railway, to carry the quartz. If the Commissioner did not agree with the company as to the terms upon which they should carry the quartz, then the Governor in Council would have to decide; they had to prescribe the regulations. That was the only practical solution that could be offered for a difficulty of that kind.

The HON. T. MACDONALD-PATERSON said he had a good deal of sympathy with the view taken by the Hon. W. D. Box and the Hon. B. B. Moreton. The language of the clause would not exactly carry the interpretation that had been given to it by the Minister of Justice. If they looked back to section 3 of the Bill it would be seen that it was there provided that:—

"If any difference arise respecting the kind or number, dimensions, or sufficiency of such works, or respecting the maintaining thereof, the same shall be determined by the Commissioner."

Therefore, in another part of the Bill the Commissioner was to be referred to, and it was his intelligence or judgment which was to determine the difference that might arise in respect of the maintenance and quality of the works on the railway. Those were very much more important matters than the mere working of the traffic. He would be inclined to insert a provision to the effect, that the terms under which the company's material should be conveyed over the Government railway should be settled by the traffic manager, and that, in the event of any dispute arising between the traffic manager and the company, it should be referred to the Commissioner. Practically, on the other matter to which he had referred, the decision of the Commissioner was to be final. Why, then, should the Governor in Council descend to the small matter of fixing a rate per ton per mile for the carriage of goods, seeing that other and more important matters were referred to the Commissioner? He would suggest to the Minister of Justice that he should put the clause in language which would carry the precise meaning he had given in his interpretation of it.

The HON. W. FORREST said he thought the clause as it stood was in perfect harmony with the Railways Bill. By clause 38 of that measure it was provided that the commissioners might make by-laws in respect of certain matters, among them being that of "regulating the receipt and delivery of goods and other things to be conveyed upon such trains." If reference was made to the next clause it would be found that no such by-laws would have effect unless approved by the Governor in Council. The provision, therefore, now under consideration by the Committee was in perfect harmony with the provisions of the Railways Bill. The company might apply to the commissioners to have their quartz or other material carried over the Northern Railway, and the carriage would be subject to such regulations as were approved of by the Governor in Council, which regulations were first framed by the commissioners.

The MINISTER OF JUSTICE said the clause expressed his meaning, and he could not express it in any clearer language than it contained. He really could not see the difficulty the Hon. T. Macdonald-Pateron saw in the clause. He (the Minister of Justice) had tried to gather from his speech what was the difficulty in the mind of the hon. gentleman, but he confessed that he could not see it. If the Commissioner refused for any reason to carry the quartz, material, or waggons belonging to the company upon the Government line down to the Burdekin River, there would be a remedy—the company could appeal to the Governor in Council to specify the regulations under which the material should be carried.

The HON. F. T. BRENTNALL said the clause was intended to provide that the company might have running powers over the Government railway. He did not think the clause was intended to provide for any misunderstanding or dispute that might arise between the company and the Commissioner. If he read the clause correctly, it was to empower the company, whose Bill that was, to carry quartz and other material, and run waggons over the Northern Railway. In order to enable them to do that certain terms must be arranged, and certain regulations be provided. Who was the proper party to provide those regulations and lay down the terms? If they went back to the 4th clause of the Bill, under the 3rd subsection, they would find the following:—

"Provided also that nothing in this Act shall prevent the company from agreeing with the Commissioner to work the said branch line in connection with the Northern Railway, and to use thereon such locomotive engines, carriages, and waggons, the property of the Government, as may be necessary."

Why should they not pursue the analogy in the clause under consideration, and say that the company and the Commissioner might make arrangements by which the company might run their own waggons and carry their own material on the Northern Railway? It was a precise analogy. He did not think that any peremptory power, apart altogether from that very important board of commissioners which it was contemplated now to establish, should be given to a company like that, with a small branch railway, to compel the officials to carry their material. Let it be a matter of arrangement between the company and the Commissioner. They were legislating at the present time by another Bill for a very important board which was to have almost absolute control of their railways; At least they all anticipated that the commissioners would have the management of the railways, apart altogether from any interference which might be unnecessary or similar to that to which the present Commissioner had been subjected to from time to time by Ministers who had comparatively little knowledge of the business in

which they interfered. They were going to pay the commissioners a total sum of £6,000 a year, and surely they might have control over a little matter of that kind. It was merely a question of making arrangements for running the rolling-stock and carrying the materials of the company over the Northern Railway, and he thought that that was a matter that might very safely be left to the company and the commissioners, but to say—

"The company may, subject to such terms and regulations as the Governor in Council may from time to time prescribe, require the Commissioner to carry the quartz"—

would place that very responsible board which it was proposed to establish in a very unenviable position. The clause might read in this way: "The materials and waggons of the said company may be carried over any portion of the Northern Railway, subject to such terms and regulations as may be approved of for that purpose." He thought that was the object of the clause, and he would suggest that amendment for the consideration of the Minister of Justice.

The MINISTER OF JUSTICE said the amendment which the hon. gentleman suggested expressed exactly the meaning of the clause as it stood. What the hon. gentleman suggested empowered the Commissioner to carry the waggons or goods over the railway.

The HON. F. T. BRETNALL said his proposal omitted the Governor-in-Council altogether from the clause, and left it for the Commissioner to make arrangements and regulations, and fix the terms upon which the work was to be done.

The HON. W. FORREST said he did not think they should omit the Governor in Council, because if they did the clause would not be in harmony with the Railways Bill. The Commissioner could make regulations for doing all sorts of things, subject to regulations which had been approved by the Governor in Council. If the Governor in Council were omitted, they would allow the company and the Commissioner, without the intervention of the Governor in Council, to make arrangements. They would give the commissioners greater powers than they had under the Bill specially constructed for their appointment.

The HON. W. D. BOX said: The clause was practically an appeal from the railway company to the Governor in Council. He did not believe the Governor in Council would act without the advice of the commissioners. The marginal note of the 27th clause of the Maryborough and Uranang Railway Bill said: "Company and Minister to have running powers on each other's lines," and it went on to say that "the company and Minister shall afford all reasonable facilities for the receiving and forwarding of goods." In the clause before them there was really an appeal straight from the company to the Governor in Council.

The MINISTER OF JUSTICE said he was very glad the hon. gentleman referred to the Maryborough and Uranang Railway Act. He pointed out that the Minister was the person referred to, and practically the Minister, in a matter of that kind, was the same as the Governor in Council. He thought hon. gentlemen were leaping before they came to the stile. The Railways Bill was not yet in force. They did not know what might happen. It might not come into force, in any case, for some few months, six or twelve months, at any rate; and in the Bill before them they had adopted the same principles as in similar Bills of the same nature, giving the company and the Governor in Council mutual running powers over each other's lines. The company had spent money in constructing

their three-quarters of a mile of railway line, and unless that clause was included the line would be made perfectly useless to them, because they could not use it unless they had legal right to do so. They ought to have that legal right to use it, and carry their quartz and waggons over the line, but that legal right had to be regulated by some system, and the same system had been adopted as that provided in similar Acts. The same phraseology had been used in other Acts.

The HON. T. MACDONALD-PATERSON: Give us a precedent to that effect.

The MINISTER OF JUSTICE said it would take him some little time to look up the Acts, but he was sure that that was the same form that had been adopted in previous cases.

The HON. W. D. BOX said if the words "Governor in Council" were out of the clause it would read thus:—

"The company may, subject to such terms and regulations as may be from time to time prescribed, require the Commissioner to carry the quartz or other material and waggons of the said company over any portion of the Northern Railway."

It was the duty of the Commissioner to make terms and regulations, and yet by the clause it is provided that they had to be approved by the Governor in Council.

The MINISTER OF JUSTICE said it had been suggested that the words "Governor in Council" should be omitted, but he would ask hon. gentlemen just to consider the section without those words. It would simply place the whole of the Northern Railway line at the free and complete disposal of the company. That would be the effect of the amendment. The company might require the Commissioner to carry material, waggons, etc., according to the suggested amendment. Let the Bill pass in that form, and what would be the consequences? The company would be the proprietors, practically, of the whole of the Northern Railway line. In making such a suggestion it was only fair to consider what the effect of the amendment would be.

The HON. F. T. BRETNALL said he thought the objection to the clause arose chiefly from the use of the word "require." The opinion seemed to be that the company should not under any circumstances have the power to demand from the Commissioner that anything they might choose to send over the line in connection with their business should be carried without the option of refusal or control. It seemed to him, as the clause stood, that the company would have the power to bring to bear any kind of back-door influence they might wish to employ, on the Ministry for the time being, to get regulations passed enabling them to absolutely demand from the Commissioner that he should do their will and bidding. That was what he objected to. He wanted the company to have running powers, but he did not want them to have the power of going to the Commissioner under the authority of the Governor in Council, and insist that anything they might wish to have carried at any time, however inconvenient it might be, should be carried. He thought it was a matter that should be arranged between the Commissioner and the company, with the approval of the Ministry. Of course they understood the argument of the Hon. W. Forrest, that all those regulations must be confirmed by some sufficient authority. That authority was the Governor in Council. The rules and regulations fixing the terms on which the business of the company should be done must be confirmed, but it was the peremptoriness of the clause that was objected to. He should like to see the clause altered in some way, and it

might read thus: "The company may require the commissioners to carry the quartz or other material and waggons of the company over the Northern Railway, subject to any tolls and dues and arrangements that may be made by the Commissioner." He objected very strongly to the company gaining power through the Governor in Council, which would enable them to absolutely control the railway. Let there be regulations made, but not regulations which would enable the company to dictate to the Commissioner the way in which the business was to be conducted.

The MINISTER OF JUSTICE said the Hon. Mr. Macdonald-Paterson had asked him for a precedent, and the first one that had come to hand was the Gulland Railway Act. He would read clause 10 of that Act, and then ask hon. gentlemen to compare it with clause 8 of the Bill before them:—

"The said James Gulland may, subject to such terms and regulations as the Governor in Council may from time to time prescribe, require the Commissioner to carry the coal and waggons of the said James Gulland over any portion of the Southern and Western Railway."

That was the usual clause inserted in a Bill of that kind, giving a company power to construct a railway, the right to claim the use of the line. It gave the Governor in Council the controlling power and specified the conditions upon which the company were to be allowed to use the line; he could say nothing further upon the subject.

The Hon. W. F. TAYLOR said he had listened attentively to the arguments which had been brought forward on that clause, and he thought the clause, as it stood, met all requirements, and that there could be no reasonable objection to it. It was quite evident that the company must have a certain right to use the Northern Railway, otherwise their line would be quite useless to them. One of the objects of the Bill was to give the company the right to use the Northern Railway, but it was a right that they might claim at a very inconvenient time, and in a manner which the Commissioner might not approve of. Consequently it was highly necessary that some rules and regulations should be prescribed which should regulate the way in which the line was to be used. He thought the main tenor of the Railways Bill was that all rules and regulations made by the Commissioner should be approved of by the Governor in Council, and if the Governor in Council made regulations they would, of course, be made at the instance of the Commissioner. He could not see that the clause required amendment.

The Hon. W. D. BOX said the Minister of Justice had found a precedent, and he was quite satisfied.

The Hon. B. B. MORETON said he was sorry to hear the Minister of Justice say that he had any doubt about the Railways Bill being passed.

The MINISTER OF JUSTICE: I have not said that.

The Hon. B. B. MORETON said one would gather from the remarks of the hon. gentleman that there was some chance of it not passing. He was sorry the hon. gentleman entertained that opinion, because he was sure every member of that House would wish to see it passed. The objection that he had raised to the clause was that it was imperative upon the Governor in Council, without reference to the Commissioner, to make rules and regulations. He said that those rules should, first of all, be advised by the commissioner, and then, through the Governor in Council, made law; but the clause did not say so; it said that the company should go to the

Governor in Council and require them to make rules and regulations upon which they could carry their quartz and other materials over the line.

Question—That the clause, as read, stand part of the Bill—put.

The CHAIRMAN declared that the "Not-Contents" had it.

HONOURABLE MEMBERS: No, no!

The MINISTER OF JUSTICE: Divide.

The Hon. W. FORREST: The "Contents" have it. Put the clause again.

The Hon. T. MACDONALD-PATERSON: A division has been called for, Mr. Chairman.

The Committee divided:—

CONTENTS, 10.

The Hons. A. J. Thynne, W. Forrest, F. H. Hart, W. D. Box, W. F. Taylor, P. Macpherson, W. Aplin, J. S. Turner, T. L. Murray-Prior, and W. G. Power.

NOT-CONTENTS, 6.

The Hons. T. Macdonald-Paterson, H. C. Wood, J. Swan, W. Pettigrew, B. B. Moreton, and F. T. Brentnall.

Question resolved in the affirmative

Clause 9 and preamble passed as printed.

The House resumed, and the CHAIRMAN reported the Bill without amendment.

The report was adopted, and the third reading of the Bill made an Order of the Day for Tuesday next.

## RAILWAYS BILL.

### COMMITTEE.

On the Order of the Day being read, the Presiding Chairman left the chair, and the House went into committee to further consider this Bill.

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 he had hoped yesterday that the Hon. A. C. Gregory would have been present that day to take charge of the amendments which he proposed. In proposing his amendment yesterday he had said pretty well all he intended to say. In going carefully through the clause he had seen that there would be five or six consequential amendments to make if his principal amendment were carried, and he thought it would simplify matters very much if, instead of proposing the amendment he did yesterday, he now moved that all the words after the word "provided" be omitted with the view of inserting the following:—

(a) If a 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 the 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 the Legislative Assembly so declare, the said commissioner shall be removed by the Governor in Council accordingly.

He would not detain the Committee any longer, but would simply say that, whatever might be said about that Chamber, at all events it was the final court of revision, and it was the first time in the history of parliamentary government in Queensland that the functions of revision had been attempted to be taken away from it.

The ACTING CHAIRMAN said he did not think the hon. member would be in order in proposing the new clause in substitution for the original clause in the Bill which it was proposed to amend. The new clause was the same as the original, except that the words "Legislative Assembly" in subsection (a) were altered to "both Houses of Parliament," and that consequential amendments were made in subsection (b). It would, therefore, be better to move that the words "Legislative Assembly" be omitted, with the view of inserting the words "both Houses of Parliament."

The HON. W. FORREST said he accepted the suggestion of the Chairman, and now formally moved that the words "the Legislative Assembly" in subsection (a) be omitted, with the view of inserting "both Houses of Parliament."

The HON. T. MACDONALD-PATERSON said he had not the satisfaction of being present when the Minister of Justice explained the Bill on the second reading, nor had he the opportunity of reading the speech of the hon. gentleman as reported in *Hansard*. He would, therefore, be glad if the hon. gentleman would take the trouble to inform the Committee, as there was also one other member at least who had not heard any explanation of that clause, why the Government had excluded the Legislative Council from that clause, and also why they had not adopted in general terms the corresponding provision in the Victorian Act, seeing that most of the arguments in favour of the establishment of a board of commissioners for the management of their railways were founded on the benefits derived from the operation of the Victorian Act. If, then, they were going to adopt the same system of working their railways in this colony, he thought that, seeing that nothing had occurred in Victoria to necessitate an amendment of the Act in respect of the tenure of office of the commissioners, it would be quite good enough for Queensland to adopt the provision of the Victorian statute, governing the tenure of office of the commissioners. It was a very good provision. He believed the Minister of Justice had referred to that subject on the second reading; it was, therefore, his duty to offer an excuse to the Committee for taking up the time of hon. gentlemen in asking for an explanation of the matter from the Minister of Justice. He (the Hon. T. Macdonald-Paterson) thought it would be judicious on the part of the Committee to adopt the provision in the Victorian Act.

The MINISTER OF JUSTICE said he explained the other day, rather tediously he thought, the circumstances affecting that matter. The Bill, as it had been introduced, did not in any way affect or take away from the Legislative Council any function which it had hitherto enjoyed. The immediate and direct control of the railway officers was a matter peculiarly within the duties and functions of the Legislative Assembly, inasmuch as they composed the

branch of the Legislature which was especially responsible for financial matters— for revenue and expenditure. That Bill was merely a matter of revenue and expenditure. It changed a system of revenue and expenditure now in force for another system of revenue and expenditure, and it proposed to secure a higher class of service than they had had up to the present time. That was practically the basis of the whole Bill. It was intended to give to the commissioners a greater amount of security and freedom from political pressure than the Commissioner for Railways had hitherto enjoyed; and unless they took such a course with regard to the management of railways as would be obnoxious to the majority of the people and their representatives in the Legislative Assembly, their position would be perfectly secure. It had, he thought, been argued that it was unusual that mention of the Legislative Council should be omitted from a measure of that kind, and reference had been made to the Auditor-General, and the members of the Land Board. But, as he had before pointed out, the position of the Auditor-General was altogether different from the position that would be occupied by the commissioners. The Auditor-General was an officer of Parliament, and was responsible to Parliament; he made his reports direct to Parliament, and he was entirely independent of Ministers in the performance of the duties with which he was charged under the Audit Act. But the railway commissioners would not be entirely independent of Government control. The policy of railway construction was a matter still reserved to the Government and to Parliament. They hoped that under that Bill Parliament would derive great assistance from careful inquiry and report by the commissioners as to the prospects of any new railway proposed to be constructed. Their report would be laid on the table before any new railway was approved, and the commissioners would be responsible for their recommendations not only to the Legislative Council but also to the Legislative Assembly. The principal reason why the Council had not been included in that clause was the difficulty of seeing that any practical benefit would result from their inclusion. Let them take two cases that might arise and see what would be the effect of referring the question of the dismissal of a commissioner to the Legislative Council as well as to the Legislative Assembly. Suppose first of all the Government suspended a commissioner, the Legislative Council, if they had the function which the amendment proposed to give them, might say—"We think the commissioner ought to be retained," and the Legislative Assembly, on the other hand, might say—"We do not approve of the commissioner's conduct; we think he has acted wrongly." There would be a distinct difference of opinion, and the result would be that the Legislative Council would keep in power a commissioner who had been condemned by the other branch of the Legislature—condemned by the branch which was peculiarly responsible for the financial results of the railway operations, and that would be a very unbecoming position for the two Houses to occupy. The other case which might occur was that in which the Legislative Assembly might consider that the commissioner who had been suspended ought not to be dismissed, and the Legislative Council might consider that he ought to be dismissed. That would be quite an untenable position for one of the Houses. Such a difference of opinion would lead to unnecessary conflict, and it was not hard to foresee what the result of such a conflict would probably be. Those were the reasons he had given why the Committee should adopt the clause as it stood, and why mention of the Legislative Council had been omitted from the clause.

The HON. T. L. MURRAY-PRIOR said it appeared to him that most of the members of the Committee were of one mind with regard to that clause, and that was that the Legislative Council should not be left out. He hoped they would act on that agreement, and work together in the matter. Certain amendments had been brought forward by the Hon. W. Forrest. With those amendments he agreed; but still it was a matter of opinion whether they should not adopt the corresponding provision in the Victorian Act, seeing that the Bill had been framed on that Act, which, as far as they knew, had, up to the present time, worked well in Victoria. If it had not worked well it was not likely that the colony of New South Wales would have framed their Bill upon the same lines. It seemed to him a pity that the whole of that Act had not been followed in framing the Bill before the Committee, and particularly the provision with respect to the dismissal of commissioners. He did not think the Minister of Justice had explained what the Hon. T. Macdonald-Paterson asked him to explain. The hon. gentleman had really given the Committee no reason why the Legislative Council had been omitted from the clause, but had simply stated that if it was included it might lead to a collision with the Legislative Assembly. In the Victorian Act it was provided that if the Legislative Assembly carried a resolution for the dismissal of commissioners and the Council disagreed to the resolution the Assembly might pass it again in a second session held six weeks after, and that would be final, as the resolution would then take effect without the consent of the Council. He had heard it stated that it would be considered an indignity to the Council if a similar provision were inserted in that Bill. He could not see that it would be an indignity, and unless the mover of the amendment had some very good reason to wish to pass the amendment in the form in which it had been introduced, he would suggest that they should eliminate the whole of the clause and substitute for it the provision from the Victorian Act. He would like to see that done, unless it would cause too many alterations in the Bill, and he believed it would meet with the general approval of the Committee.

The HON. W. FORREST said it was not so easy to amend the clause in the way suggested by the hon. gentleman. The Bill was, no doubt, framed on the basis of, and in many parts was copied from, the Victorian Act. Still it had been altered slightly, and those alterations were of such a character as made it very difficult to adopt the provision of the Victorian statute, with reference to the suspension and dismissal of the commissioners; and on looking at the matter very carefully, he could not see his way to get the Bill so amended as to enable him to make the proposition suggested by the Hon. T. L. Murray-Prior. The corresponding provision in the Victorian Act was section 14, which commenced by stating that "The commissioners shall hold office during good behaviour for the term of seven years," and that was provided in a previous part of the Bill before the Committee. There was also a slight difference in one or two other points, so that it would be impossible to adopt the provision as it stood without making a number of other alterations in the Bill. He had not had time to arrange those amendments, and he, therefore, thought the only way to deal with the matter was to adopt the amendment he had proposed. In speaking the previous evening on the amendment, he replied to what had been stated by the Minister of Justice. The hon. gentleman had repeated pretty much the same remarks that afternoon. He (Hon. W. Forrest) joined issue with the hon. gentleman most emphatically, and said the Council was not

going to be deprived of any of its privileges. Never before when an official had been taken from under the control of the Government had the Council been excluded in that way, but the officer had always been placed under the control of both Houses of Parliament. Therefore, he contended that that clause would take away one of the privileges of that Chamber, and whether they were popular or unpopular, they ought to insist on the maintenance of their privileges. He was amazed that any hon. member, even if he was the representative of the Government in the Council, should try to derogate from the dignity of that Chamber by saying that, if they amended that clause, they would come into conflict with the other House, which was the popular branch of the Legislature. If they were going to be wiped out, let them be wiped out at once. But he was astonished that any member should use such an argument, and trusted that the Committee would not listen to it for one moment. Why should they come into conflict with the other House? If they were not elected members, they were nominees nominated by different Governments who represented the people. Every Government had nominated members, and if those members were not capable of taking a rational and just view of matters like that, then the responsibility rested on the Governments for putting such men in the Council. He contended that the Council was more likely to take a calm, just view of the question as to whether a commissioner should be dismissed or not, than men who sat elsewhere, and were liable to be carried away by a whirlwind of passion, and do what they were told by their constituents, or possibly what was to their own interest. It would be found that a considerable amount of political pressure would be brought to bear on the control of the commissioners, if the decision of such a question was left to the Assembly alone. It had happened in Victoria. A considerable section of members in the Victorian Assembly endeavoured to get the powers of the commissioners curtailed, in fact, to get the commissioners done away with altogether, when they found that they had not the great influence they had before, and could not get railways constructed wherever they wished. As soon as the commissioners stepped in and tried to conduct the business in a proper way there was a great political outcry. The reasons he had given were the reasons that induced him to propose his amendment, together with the fact that he considered the Council the ultimate court of revision. It was derogatory to the dignity of that Chamber to submit to it a clause of that sort and he therefore intended to insist on his amendment. He would not object to the provision in the Victorian Act if the Committee had wished to insert it, but he did not see his way to make it harmonise with the rest of the Bill.

The HON. W. D. BOX said that if the matter went to a division he would vote for the amendment. His reason for doing so was that one of the great gains to be achieved by that measure was that the commissioners would be removed from political influence, and that would not be accomplished if the removal of a commissioner was left entirely in the power of the Legislative Assembly. To do that, the commissioners must be placed under the control of both Houses of Parliament. He certainly agreed with the amendment, but he did not like the provision in the Victorian Act. It was a most dangerous provision. In effect it was this, that the commissioners in that colony had an appeal to both Houses of Parliament, but if the Houses of Parliament disagreed, the Legislative Assembly could, in a session held six weeks subsequently, pass a resolution, which the Legislative Council had previously refused, and it would then

become effective without the sanction of the Council. Under that provision, therefore, a commissioner could be dismissed without the approval of the Council. If the amendment now under consideration were passed the very worst thing that could happen would be a collision or dispute between the two Houses. There had been disputes between the two Houses before, but they had afterwards been settled. He believed that if the Council in its wisdom thought fit to disagree with the Assembly, they would do so for satisfactory reasons. As he had said, if they adopted the amendment the worst they had to fear was a disagreement between the two Houses. Time would remedy that and no injury could possibly happen to the State or any individual by such a calamity, but injustice might be done if an agitated Legislative Assembly had the power six weeks after the rejection of a resolution by the Council to bring it up again and pass it in defiance of the Council. He, therefore, approved of the amendment proposed by the Hon. W. Forrest. If that amendment was not insisted on, he would rather the clause was passed as it stood than that they should adopt the provision of the Victorian Act.

The Hon. W. FORREST said that in the event of a commissioner being suspended by the Government of the day, he could not see that any trouble or calamity would happen by a collision between the two Houses. The business of the Railway Department would go on just the same, but he had not the slightest dread of the two Houses coming into conflict. He did not believe there was a member of that Committee who would refuse for one moment to dismiss a railway commissioner, or all of the commissioners, if they were found dishonest or incapable, no matter what party might be in power.

The Hon. F. T. BRENTNALL said there were just one or two points to which he would like to refer before the discussion was concluded. Something had been said by the Minister of Justice with regard to that being a Bill affecting revenue and expenditure, and he stated that the Committee should be very careful in dealing with the Bill. He (Hon. F. T. Brentnall) thought they had under consideration the previous day a Bill which, at any rate, had relation, though it might be more remote, to revenue and expenditure, and that was the Chinese Immigration Restriction Bill. In that Bill it was expressly provided that regulations were to be made by the Governor in Council for carrying out the provisions of the Bill. Then it was further provided that—

“A copy of such regulation shall, within fourteen days thereafter, be laid before both Houses of Parliament, if Parliament be then in session, and if not then in session, within fourteen days after the commencement of the next session.

“If disapproval of such regulations is not expressed by resolution of the Legislative Council or Legislative Assembly within fourteen days thereafter, they shall, after publication in the *Gazette*, have the force of law.”

He took it that that case was a strictly analogous one, so far as the revenue question was concerned. There they had one Bill before them in which regulations affecting a question which concerned the revenue and expenditure of the colony—in a remote sense it was a money Bill—and their rights were granted to them in that Bill; but in the present case they would be deprived of their rights if the Bill was passed in the form in which it was introduced. He did not see any justification for the distinction made in those two measures on that particular point. There had been a good deal said about the possible influence that might be brought to bear upon the other branch of the Legislature in dealing with the question of the sus-

pension of a commissioner. The other branch was, perhaps, properly called the popular branch; but, being popular, was it not amenable to certain influences which could not possibly touch the Council? And if it were amenable to those influences—and voting in that Chamber generally on a question of that kind would go on party considerations, and party lines—would there not be a greater danger there than in the Council, that an injustice might be done to a commissioner who was under suspension? And whilst a great deal might be said in depreciation of a possible dispute between the two branches of the Legislature, there was a worse thing than a dispute between the two Houses; and that worse thing would be to have, under political excitement and influence and by the exercise of a party vote, a serious injustice done to a commissioner, and through him possibly to the country. He did not think there was any cause to fear that the judgment of that Chamber would go very far astray if an appeal were made to it. He was quite sure the utmost care would be given to any question that might come before the Legislative Council, and he thought that the Ministry of the day might safely trust their judgment—they need not be afraid of it, but trust it, and possibly get very serviceable help from it. He hoped the Hon. W. Forrest would persist in the amendment he had proposed, and he would be prepared to support the hon. gentleman with his vote.

The Hon. T. MACDONALD-PATERSON said he would not detain the Committee very long, but he could not allow that matter to go to the vote, as he trusted it would, without saying a few words. Now, the first impression that he took from the intention which was within that clause was that it was unquestionably an attempt to disintegrate one section of the Constitution of the country, and he did not think the insidious way in which the clause was attempted to be inserted was a credit to the ingenuity of the deviser of the measure. It would be very much more straightforward to attack the Constitution openly before the country, and let the country decide whether the Upper House was to subsist on its present footing at all, or whether its constitution should be modified or amended. Those were thoughts which must have arisen in the minds of every member of the community who thought about the constitution of the colony of Queensland, let alone the minds of hon. gentlemen who constituted that Chamber. The arguments of the Minister of Justice were not answers to any of the objections which he had raised. He clung to the financial aspect of the question as if that House had not still and always had power on money questions to this extent that no one would question the right of that House to reject a money Bill.

The MINISTER OF JUSTICE: I never did.

The Hon. T. MACDONALD-PATERSON said if the House was to be shorn of the exercise of its intelligence in respect of the great and growing importance of our railways, then he said, there was no need for its existence. Why, the report of the commissioners was to be presented to “Parliament.” Why was the analogy not followed out, and the Bill state that the commissioners were to present their report to the Legislative Assembly? He had come totally unprepared to deal with the question, because he had hoped that the Minister of Justice, on behalf of the Government, would have been prepared with a clause that would have done the Government credit, and met the objections of hon. members. He would like to make one or two observations with respect to the experience of Victoria, which



he was sure every member of the House would be more or less cognizant of. Could they forget the attempts that had been made by the Legislative Assembly of Victoria, or a powerful section of it, to neutralize the powers of the commissioners altogether. Was it not a fact that the principal reason for placing the Victorian railways under a commission was to do away with political influence—that the law was passed with the primary object of repressing corruption, and extinguishing the backstairs influence in relation to the patronage of the department? Now, the Victorians thought that the cure would be worse than the disease if they excluded the Legislative Council from having a voice in the commissioners' tenure of office; and the argument of the Hon. Mr. Box was partially wrong with reference to the two resolutions which the Victorian Assembly must pass within six weeks, because the Governor was not bound then to act on them. Although the colony of Queensland was comparatively young, it had a very large mileage of railways. Within ten years it would have a larger mileage of railways than any colony of the Australasian group; and it was a paramount necessity to the excellent working of the proposed commission that the Legislative Council should not be excluded from a possible consideration of any difficulty that might arise in relation to the gentlemen who might form the commission. As far as the repression of corruption, and the extinguishment of patronage and backdoor influence of members of the Assembly were concerned, he was sure they would be delighted to be rid of it; but he said they would be doing good to the Legislative Assembly of the present day, as well as any future Assembly, if they insisted upon the Council maintaining its legitimate position as a part and parcel of the constitution of the country. Why was it that their Standing Orders specially provided that an inexpedient railway or an inadvisable route should be referred to a committee of that House. It was their section of the Parliament alone in which it was imperative to refer railways to select committees to inquire as to the route and cost and policy of the different proposed lines, and, forsooth, while they were charged with that very important duty, and one that had been performed well and with much advantage to the country, they were not to participate in the important function of determining anything at all in relation to the Act conferring upon the commissioners the custody and management of the railways. And yet the commissioners were to have the power of addressing them as a portion of the Parliament. He had said sufficient to indicate the way in which he should vote. He did not, for one moment, attempt to defend the House as it was at present constituted; that was a different matter; but he did say that while they remained an integral part of Parliament, that it was alike unwise and inexpedient that they should be altogether excluded from partaking of responsibilities which the people of the colony had never said they should not undertake. He should have great pleasure, indeed, in supporting the amendment of the Hon. W. Forrest.

The MINISTER OF JUSTICE said he did not wish to prolong the debate, but he would point out, in answer to the Hon. Mr. Brentnall, that there was absolutely no analogy between the reference he made to the regulations being laid upon the table of both Houses in regard to the Chinese Bill and the Bill before them. The regulations mentioned under the Bill he spoke of were required to be laid on the table of both Houses for a certain time, and if not dissented from by either House, they had the force of law. That was another system

of legislating through both Houses of Parliament. Regulations were submitted for inspection and approval, and if, within fourteen days, they did not make any objection to them, in either House of Parliament, they took full effect. Now, a great deal had been said by the Hon. Mr. Macdonald-Paterson, in which he seemed to think that he (the Minister of Justice) desired to advocate a measure inimical to the interests of that House. He thought that during the period that the hon. gentleman had been in the House he had led more attacks upon the claims of the House and the control of the finances of the colony than almost any member in the Committee, and he really enjoyed heartily the nice way in which the hon. gentleman endeavoured to throw his mantle across the table to him on that occasion. However, the mantle that fitted the hon. gentleman's shoulders did not fit his, and he returned it to him. He was always prepared to stand up for what he considered to be the true privileges of the House, as much as any member in the Committee. In fact, he was in a position where it was his duty, if he was convinced that any attempt was being made to oppose the real privileges of that House, to stand up in defence. He did not think that any such attempt was now being made, and with those remarks he would leave the matter to the decision of the Committee.

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

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

The HON. W. FORREST moved that in subsection (b), line 50, the words "the Legislative Council and" be inserted after the word "unless."

Amendment agreed to.

The HON. W. FORREST moved that in the same subsection, line 2, page 4, the words "it declares" be omitted, with a view of inserting the words "them, respectively, severally declare."

Amendment agreed to.

The HON. W. FORREST moved that, in the same subsection, line 4, the words "Legislative Council" be inserted after the word "time."

Amendment agreed to.

After a further verbal amendment, clause, as amended, put and passed.

On clause 14—"Conduct of business"—agreed to with a consequential amendment.

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

#### ADJOURNMENT.

The MINISTER OF JUSTICE said: Hon. gentlemen,—I move that this House do now adjourn. In doing so, I may say that I hope, on Tuesday next, we shall be able to deal with the Bills still remaining on the paper.

The HON. B. B. MORETON: What will you take first?

The MINISTER OF JUSTICE: I propose to take the third reading of the Bills passed to-day, and the Chinese Immigration Bill, in committee, will come next.

Question put and passed.

The House adjourned at three minutes to 6 o'clock.