Queensland

Parliamentary Debates
[Hansard]

Legislative Council

TUESDAY, 24 SEPTEMBER 1889

Electronic reproduction of original hardcopy

LEGISLATIVE COUNCIL.

Tuesday, 24 *September*, 1889.

Message from the Governor—assent to Bill.—Messages from the Legislative Assembly—Brisbane water supply—Stafford Brothers Railway Bill—Queensland Executors, Trustees, and Agency Company Limited, Bill—Caswell Estate Enabling Bill.—Companies' Act Amendment Bill—amendments of the Legislative Assembly—adoption of report.—Question of Privilege—Minister without portfolio.—Crown Lands Acts, 1884 to 1886, Amendment Bill—second reading.—Day Dawn Freehold Company's Railway Bill—second reading.—Adjournment.

The PRESIDENT took the chair at 4 o'clock.

MESSAGE FROM THE GOVERNOR.

ASSENT TO BILL.

The PRESIDENT announced the receipt of a message from the Governor, conveying His Excellency's assent, on behalf of Her Majesty, to the Civil Service Bill.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.

BRISBANE WATER SUPPLY.

The PRESIDENT announced the receipt of a message from the Legislative Assembly, forwarding, for the approval of the Council, the plan, section, book of reference, and estimate of cost of proposed scheme for an additional water supply, from the Upper Brisbane River, for the city of Brisbane and its suburbs.

The MINISTER OF JUSTICE (Hon. A. J. Thynne) moved that the consideration in committee of the Legislative Assembly's message stand an Order of the Day for to-morrow.

Question put and passed.

STAFFORD BROTHERS RAILWAY BILL.

The PRESIDENT announced the receipt of a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to authorise William Stafford, Joseph Stafford, John Stafford, and James Stafford, of Bundanba, in the colony of Queensland, colliery proprietors, trading as "Stafford Brothers," to construct and maintain a branch line of railway, connecting with the Southern and Western Railway.

On the motion of the HON. P. MACPHERSON, the Bill was read a first time, and the second reading made an Order of the Day for Tuesday next.

QUEENSLAND EXECUTORS, TRUSTEES, AND AGENCY COMPANY, LIMITED, BILL.

The PRESIDENT announced the receipt of a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to confer powers upon the Queensland Executors, Trustees, and Agency Company, Limited.

On the motion of the HON. A. C. GREGORY, the Bill was read a first time, and the second reading made an Order of the Day for Tuesday next.

CASWELL ESTATE ENABLING BILL.

The PRESIDENT announced the receipt of a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to authorise the mortgage of certain real and personal estate, devised and bequeathed by the will of Henry Drew Caswell, deceased, and to enable the trustees under the said will to carry on the business of the said Henry Drew Caswell, deceased, and to indemnify them for any loss or damage by reason thereof.

On the motion of the HON. P. MACPHERSON, the Bill was read a first time, and the second reading made an Order of the Day for Tuesday next.

COMPANIES' ACT AMENDMENT BILL.

AMENDMENTS OF THE LEGISLATIVE ASSEMBLY—ADOPTION OF REPORT.

The MINISTER OF JUSTICE moved that the report of the committee on the amendments of the Legislative Assembly be now adopted.

Question put and passed.

The MINISTER OF JUSTICE moved that the following message be transmitted to the Legislative Assembly:—

"MR. SPEAKER,

"The Legislative Council having had under consideration the amendments made by the Legislative Assembly in the Companies Act Amendment Bill, beg now to intimate that they—

"Disagree to the transposition of clauses 7 and 8, and to the proposed amendment in clause 8—Because the clauses are in the nature of exceptions to the provisions of clauses 5 and 6, and would most conveniently follow after those clauses.

"Agree to the amendment in clause 18, line 25 (clause 17, lines 14 and 15, as now printed), with the following amendment:—Omit the words 'increased or reduced or by which the amount of the shares is reduced,' insert the words 'divided into shares of a larger or smaller amount.'

"Disagree to the amendment in clause 21, line 24 (clause 23, line 41, as now printed)—Because it appears undesirable to extend the provisions of the clause to other companies than banking companies.

"Agree to new paragraph in clause 21, with the following amendment in line 27:—Before the word 'company' insert the word 'banking.'

"Agree to the amendments in clause 22 (clause 24 as now printed), with the following amendments:—In line 34 (as now printed) before the word 'company' insert the word 'banking,' and in line 35 omit the words 'the chairman of,' insert the words 'at least one of the.'

"Agree to new clause (25 as now printed) to follow clause 22, with the following amendments in line 46:—Omit the word 'section,' insert the word 'Act.' Omit the word 'companies,' insert the word 'company.'

"Disagree to new clause 26 (as now printed)—Because the statutory provisions already made in respect of periodical returns from companies appear to be sufficient.

"Disagree to the transposition of clauses 23, 24, and 25, and to the proposed amendment in clause 25 (21 as now printed)—Because the proposed transposition would tend to confuse two distinct subjects under one heading.

"Disagree to proposed amendment in clause 27, line 16 (clause 28, line 40, as now printed)—Because with the proposed amendment the intention of the clause would not be accurately expressed.

"Disagree to proposed amendment in clause 28 (clause 29 as now printed)—Because it is desirable that the registration of the contract should in all cases be insisted on.

"Disagree to proposed amendment in clause 30 (31 as now printed)—Because the proposed amendment would render the clause practically useless, and it is desirable that the right of a transferror to claim registration of his transferee should be affirmed by statute.

"Disagree to proposed amendments in clause 42, lines 2 and 7 (clause 25, lines 14 and 18, as now printed), omitting the word 'six' and inserting the word 'three'—Because the period originally proposed by the clause does not appear to be too long after the registration of the company.

"Disagree to the proposed amendment in lines 8 and 9 (now lines 19 and 20)—Because the subscribers to the memorandum of association, in cases where they have by law the appointment of directors, may themselves cause a non-compliance with the provisions of the clause.

"Disagree to the proposed amendments in clause 43 (36 as now printed)—Because the proposed amendment might be held to limit the application to companies registered under the Companies Act of 1863.

"And agree to all other amendments in the Bill."

Question put and passed.

QUESTION OF PRIVILEGE.

MINISTER WITHOUT PORTFOLIO.

The HON. B. B. MORETON said: Hon. gentlemen,—I wish to rise to a question of privilege. I think there has been an omission on the part of the leader of the Government in this House, because I understand that there has been an addition to the Ministry since we last met, and I think that out of courtesy to this House the hon. gentleman ought to have informed us of the fact.

The MINISTER OF JUSTICE said: Hon. gentlemen,—I have to apologise for the omission—the matter had escaped my memory for the time. I have to state that the Hon. Charles Powers has joined the Ministry, and holds a seat in the Cabinet without portfolio.

CROWN LANDS ACTS, 1884 TO 1886, AMENDMENT BILL.

SECOND READING.

The MINISTER OF JUSTICE said: Hon. gentlemen,—I beg to move that this Bill be now read a second time. It is not a very lengthy measure, but it contains a number of provisions which, I think, will commend themselves to the House, as amendments of the Crown Lands Acts, 1884 to 1886. The Bill contains only sixteen clauses, yet some of them received, before they came to this House, and will receive in this House, a considerable amount of attention. Every Bill introduced into a Colonial Parliament on the subject of Crown lands receives a full measure of consideration; and this Bill, no doubt, will not be an exception to the general rule. I will shortly explain the different clauses, and the objects for which they have been introduced. The 3rd section is the first clause to which it is necessary for me to refer. That clause contains eight subsections, to each of which I will make reference. The 1st subsection is intended to restrict the time within which application may be made to the Governor in Council for a rehearing, on a decision of the board, to ninety days after the date of the decision by the board. Under clause 20 of the principal Act there is no time specified within which application may be made. That clause is as follows:—

"Upon the application of any person aggrieved by the decision of the board, the Governor in Council may remit the matter to the board for reconsideration.

"The board shall thereupon appoint a day for rehearing the matter in open court, and shall proceed to a rehearing thereof accordingly."

Considering that all the parties concerned in these matters have every opportunity of being heard and represented before the board, it seems reasonable that there should be some restriction of time within which an appeal can be made to the Governor in Council for further consideration of the matter. It has happened that rehearings have been applied for as long as three years after the decision of the board has been given, and in some cases perhaps longer than that. It is now proposed to place a reasonable limit on the time within which an application for a rehearing may be made. The 2nd subsection is intended to amend the provision of section 55 of the principal Act, which is to the following effect:—

"Upon the issue of a license the selector may enter upon the land and take possession thereof, but shall not be entitled to impound any stock of the last authorised pastoral tenant found trespassing on any part of the land which is not enclosed with a good and substantial fence, except in the case of wilful trespass."

That section is in the portion of the Act dealing with agricultural and grazing farms, and the defect in the principal Act, which it is proposed to amend, is that a selector may take up a selection and hold it for three or five years—three years in the case of a grazing selection, and five years in the case of an agricultural selection—without any occupation of the land whatever. It could scarcely have been the intention of Parliament that these selections should be taken up and held unoccupied and unimproved for such long periods, and it is now proposed to amend the Act in such a way that the selector is required to enter upon and occupy his selection within six months after the license is issued. The period of six months is considered a reasonable time to allow, and if the selector should fail to occupy his land within that time, the same consequences are to ensue with respect to his license as are prescribed in the case of a lease upon the like default. If he does not occupy the selection within six months, the license and the selection itself are liable to forfeiture. The 3rd subsection is a provision which will be found very useful in some parts of the colony. It is intended to give the holder of an agricultural farm, of not more than 160 acres, who resides personally and *bonâ fide* upon it, the power to select in any area open for selection as grazing farms, within a distance of fifteen miles, a grazing farm not exceeding 640 acres, but he is to be exempt from the condition of residence on the grazing farm, so long as he fulfils the condition of residence on his agricultural farm. It is necessary, perhaps, to make that provision, though it is impossible to expect that the selector can reside on both selections at the same time. The 4th subsection is intended as an amendment of the 58th section of the principal Act, paragraph 5, which deals with the forfeiture of selections in case of failure of payment of rent by the lessee, and imposes a fine when the rent is not paid. The section concludes with these words:—

"But unless the whole of the rent, together with such penalty, is paid within ninety days from the appointed day the lease shall be absolutely forfeited."

It is now proposed to give the Governor in Council power to waive the forfeiture, and reinstate the selector on payment of arrears of rent due and the accrued penalty. In times of depression selectors have in the past had great difficulty in meeting the payment of rent, and they have been obliged to appeal to the Government for a little time to make up their payments. A strict reading of the 58th section does not allow waiver of the forfeiture, but it is now proposed to give that power. The 5th subsection amends the provisions of section 73 of the principal Act. Lessees must be in continuous occupation for a period of ten years, and the amendment is intended to have this effect: That any lessee who fulfils the condition of continuous occupation upon a selection for five years, is to be entitled to acquire the freehold. Under section 73 of the principal Act, a selector must himself be in continuous occupation for ten years at least before he can become the holder of the fee-simple. The amendment will cause that clause 73 to read—

"Whenever in the case of a holding in an agricultural area the condition of occupation hereinbefore prescribed has been performed by the continuous and *bonâ fide* residence on the holding of the lessee himself for the period of five years, or of each of two or more successive lessees," etc.

I think that is a concession that may properly and safely be made to holders of agricultural farms. The 6th subsection deals with occupation licenses, which are provided for in clause 77 of the principal Act. That clause provides that land shall be declared open to occupation by notice in the *Gazette*, that the first applicant shall be entitled to the license, and that if there are two or more applications made at the same time, the priority is to be decided by lot. Some difficulties have occurred in the working of that section, and in some cases an enormous number of dummy applications have been put in by parties desirous of obtaining those selections.

The greater the number, the more the chances in favour of the applicant and his dummies securing the occupation license between them. It is now proposed to provide that where there are several applications lodged at the same time, the license is to be offered to the several applicants, and to no other persons, by auction, and that one of the applicants who shall make the highest bid for such area or run, and shall pay the amount of the rent to the land agent, shall be declared the successful applicant, and the annual rent payable by him in respect of such area or run shall be the amount so bid by him instead of the sum which would otherwise be payable. Those occupation licenses are really licenses or tenancies from year to year, and liable to very short notice to discontinuance, and it is the most temporary method of holding land which we have in the colony. The subsection applies to the resumed portions of runs which are liable to be occupied by selectors. There is a further provision in this subsection which is intended to give to any person who has, as it were, discovered country which is open to occupation license, and who has requested that that particular piece of country should be thrown open to selection, and when it is certified by the land commissioner to the Minister that that land has been thrown open at the request of that particular person, a prior right before all other applicants for the occupation license. It is supposed that in some parts of the colony a considerable portion of country is occupied by graziers, who are supposed to have a legal right to the occupation of the country in their possession, and other people are thereby prevented from applying for or taking up this country. It is thought that in those portions of the colony where a man goes to the trouble of finding out country of this nature, unoccupied, and making no return to the Government, if he thinks it is worth while to apply for it, he shall have a prior right to the occupation of that particular piece of country. The 7th subsection is a very short one—

"Applications for licenses under section ninety-eight shall be made to the Minister for Mines."

Section 98 of the principal Act provides for the issue of licenses to mine for coal on temporary or permanent reserves, on such terms as to securing the surface, license fees, royalties, or otherwise, as the Governor in Council shall see fit. Applications for those licenses are proposed, in future, to be made to the Minister for Mines instead of to the Lands Department. It is a matter of convenience for the transaction of business between the two departments. The 8th subsection deals with a matter which has been rather extensively discussed of late, and that is the rights of timber-getters to depasture their working animals upon the country upon which they are entitled to draw timber. At one time it was supposed by the authorities that the right to remove timber from the country carried with it what was considered to be the necessary right of grazing their horses and bullocks while working the timber. But the point has been brought under judicial consideration, and it was held, in a recent case that occurred in the Wide Bay district, that no such right is vested in the timber-getters. It is now proposed to remove these difficulties, by giving the holder of a license the right to use the animals and vehicles necessary to remove the timber, and to depasture the animals upon Crown lands, or holdings under Part III. of this Bill. The new provision reads as follows:—

"Any person holding a license under this section may use animals and vehicles in the removal of timber or other material as aforesaid, and may while so employed depasture the animals being used therein upon Crown lands or holdings under Part III. of this Act, in such numbers, for such time, in such manner, and subject to such conditions as the regulations may prescribe."

It is difficult to prescribe at once the conditions upon which this right is to be exercised, inasmuch as any regulations can only be of a tentative character, and can only be fixed by experience. It is proposed at present to give the Governor in Council power to make these regulations, and possibly, afterwards, Parliament may see fit to initiate a measure distinctly providing for the right being exercised to fix the conditions in all cases. The 4th clause of the Bill deals with the opening of roads, but it is not worth while discussing it in detail. It is to deal with a question which may arise under the principal Act. Where a road is resumed the selector may possibly have a right to claim that the whole of his selection is resumed, and claim compensation for it. This section is to provide that the opening of a road through an agricultural or grazing farm is not to be a notice of resumption of the entire holding. The 5th clause provides that the provisions of the 11th clause of the Act of 1886 shall apply to grazing farms as well as to holdings under Part III. of the principal Act, which relates to existing pastoral lessees. The 11th section of the Act of 1886 relates to the right to put up licensed gates across a resumed road, and it is now proposed to make that provision applicable to grazing farms as well as to runs. The 6th clause is one dealing with the resumption of roads. I may say that very great inconvenience indeed has been caused, and also very great expenditure incurred, through the present system of resumption of roads. This has been the source of a great deal of trouble and annoyance, not only to the department, but to the public who have had to deal with the resumption of roads. It is proposed to simplify the present mode of procedure by providing that resumptions may be made by the Governor in Council, upon the recommendation of the board, in the following way:—

"(1) A notice signed by the Minister shall be published in the *Gazette* and local papers, and served on the licensee or lessee personally, or by post letter addressed to him at the holding, two months before the resumption takes effect;"

That is shortening the present period.

"(2) The licensee or lessee shall, within two months of the date of such notice, forward by post letter to the Minister his claim for compensation for all losses arising from the resumption, and in default thereof shall be held to make no claim;

"(3) Where land is resumed from a holding for the purpose of opening a public road through any such holding, the licensee or lessee shall be entitled to compensation for all losses sustained by him in respect of the resumption thereof from such holding, and the amount thereof shall be determined by the board;

"(4) No licensee or lessee shall be entitled to compensation for the value of any land resumed for opening a road through his holding where the area of such road does not exceed any area which may be reserved by the lease or license for road purposes; but he shall be entitled to compensation for all other loss sustained by him in consequence of such road being opened."

I may explain in regard to the 4th subsection that it very frequently happens, especially in new districts, where it is difficult to fix the exact direction or position of many public roads, to issue licenses as well as deeds of grant where the fee-simple of the land is sold, with the reservation of a certain area, the position of which is undefined, for the purposes of roads, and in these cases the selector would have no right to compensation for the area of land resumed where that area is within the amount reserved in the license or deed. Supposing that the selection contains 360 acres, with 20 acres reserved, making a total of 380 acres; if the road only took up 18 acres, there would be no claim for compensation for the area resumed. Of course, if the road went through a man's dwelling house, or any other portion of his improvements, he

would be entitled to compensation. The next clause deals with the question of selection before survey in agricultural areas. It repeals that portion of the Crown Lands Act of 1885 which gives the Governor in Council, upon the recommendation of the Land Board, power to suspend a portion of the 43rd section of the principal Act in respect of any land situated in any of the districts specified in the schedule, which did not at the commencement of that Act form part of a run, and which had before the commencement of that Act been open to selection under the Crown Lands Alienation Act of 1876 and the schedule to it. Section 12 of the Crown Lands Act Amendment Act of 1886 and the first schedule to that Act are also repealed. The 43rd section of the principal Act requires, shortly, that all lands are to be surveyed before being thrown open to selection. That section was amended in the year 1885, and subsequently in the year 1866. It is now proposed to repeal all that and insert in lieu thereof:—

"The Governor in Council may, on the recommendation of the Land Board, suspend the operation of the forty-third section of the principal Act with respect to any country lands which the board may, under the forty-first section of the principal Act, recommend to be set apart as agricultural areas."

So that the suspension of survey before selection is only to apply to land set apart as agricultural areas, and not to the colony generally. Clauses 8, 9, and 10 deal with the question of sales by auction. The 8th clause gives power to sell upon three years' terms instead of making the maximum time twelve months, as at present. The 9th clause repeals the limit of the area to be sold at the upset price of £1 per acre, and prescribes the area to be sold as not to exceed 320 acres in one lot, and provides that the upset price shall be determined by the board. There is a minimum upset price in the case of agricultural land of not less than £1 per acre, and in the case of other land of not less than 10s. per acre. The 10th clause limits the area of land to be sold annually to 150,000 acres. The 11th clause is intended to place miners in that position in which I think all parties are agreed it was intended that they should occupy under the Gold Fields Act of 1874. In passing the Act of 1884 certain clauses were unintentionally introduced which were not sufficiently considered in regard to their effect upon the mining laws, and it is intended in this clause to put them in the position they held before the Act of 1884 was passed. The 12th clause is a further step in the same direction, and it repeals the condition of making compensation to the lessee for any actual damage. The 13th clause deals with proclamations, and with what will be the effect of a proclamation upon land held under pastoral lease, or as an agricultural farm. It is intended that such proclamation shall have the effect of resumption, taking effect from the date of such proclamation of that part of the holding comprised within the area of the proclaimed goldfield or mining district. It appears to me that the phrase in the clause, "at the option of the lessee or licensee," will have an effect which was not intended by the gentlemen who introduced them into the clause, inasmuch as it leaves the question of resumptions not at the will of the Government, but at the will of the lessee or licensee. I am afraid that that will lead to a great deal of confusion and difficulty hereafter, and that is a matter which will claim our attention in committee. The 14th clause extends the foregoing provisions to grazing farms occupied or leased for mining purposes under the Acts before mentioned. The next clause deals with the vexed question of the correction of titles to land. The present law is an Act passed in the year 1858, and is one which is scarcely applicable to the present time, when the greater means of communication and newspapers have altered the circumstances. The 16th clause provides for the disposal of useless reserves for roads under Crown grants where the reservation is not required for the purposes of a public road. In such cases these reservations can be disposed of to the holder of the property through which they run without competition. I beg to move the second reading of the Bill.

The HON. B. B. MORETON said: Hon. gentlemen,—I do not wish to take up the time of the House very long. So far as the Bill is concerned, it is a very much milder amendment of the Act of 1884 than it was intended to be when it first was brought forward by the Ministry. There does not seem to be anything in it of much moment, and I think that several of the amendments it makes are of some value. I certainly agree that if there is any doubt as to whether miners can go on leaseholds to search for gold, if there really was any doubt, which I myself never had—it is as well that it should be removed, and that miners should have the right of going on to the land in search of minerals. One other important point is the lessening of the term at which agricultural farms can be made freehold. That is a question which presents both good and bad features. Of course there are some members of the community who have some doubt as to the advisability of making it too easy to acquire a freehold, without really intending to make use of the land—to hold it for a short time and get rid of it, which is to make it a mercantile proceeding, so that something may be made out of it by selling it immediately afterwards. At the same time I think that ten years is possibly too long, from what I have seen amongst selectors, and therefore five years may be an inducement, which I hope it will be, to more close settlement upon the land than there has been up to the present time. I know very little of what is termed "dummying" myself; I have only read that it has taken place in the North somewhere. There have been cases where a great many of what may be called forced applications have been put in for the purpose of securing a coveted piece of land, and therefore it may be necessary to insert this clause. The question of timber-getters going on to the land and depasturing their stock while carrying on their occupation, is one that has been raised, as the Minister of Justice says, in the Wide Bay district; but I believe it was raised by timber-getters themselves. A timber-getter re-leased a piece of leasehold from a squatter there for the purpose of depasturing cattle while he was taking off the timber, and he impounded his brother timber-getters' cattle. The squatters did not do that; I do not know a squatter who would do such a thing; they have always been willing to assist the timber-getters in carrying on their operations. The Bill is a very short one, and whatever else I have to say I will say when we are in committee. I may say that I have not had time to consider it; I did not receive a copy of the Bill until this morning.

The HON. T. L. MURRAY-PRIOR said: Hon. gentlemen,—I think it is a pity that there are some hon. members absent who understand this Land Bill as well as any one of us, and I would very much like to see them in their places. I think the Minister of Justice has given us a very fair resumé of the Bill, and although I cannot say that I agree with him in all matters, there are some clauses that I consider very good indeed. My friend, the Hon. Mr. Moreton, made use of the term "squatter," which I think must be offensive to many persons; we really are lessees, and may now be called "lessees,"

The HON. B. B. MORETON: I only used the term where it was used in connection with the question.

The HON. T. L. MURRAY-PRIOR: I think it would be as well to drop the term. It seems to me, in the first place, on reading over the Bill, that it requires the head of a lawyer to find out what it is all about. It refers to so many things that it is quite a puzzle to any layman to get hold of it. I must confess that I have had a great deal of trouble, and have not yet been able to understand it perfectly. A colleague of the Hon. Mr. Moreton, Mr. Dutton, brought forward the Land Act of 1884, and many hon. gentlemen in both branches of the Legislature predicted that it would be perfectly unworkable, and that it would continually want amending. Now, experience has shown that nearly every year an amending Act has been brought in, and nearly all of them run hard against the larger holders of property in the colony, who seem to be victimised to a greater extent every time. It is hardly justice that one portion of our compatriots who are commencing in a small way, as we did, should be patronised in every possible way; while those who commenced many years ago, and who have made the country what it is, and who have succeeded in obtaining larger properties and extending their business, as it were, should be denounced in every possible way. I certainly agree to a great extent with the amendments of the land law which are contained in this Bill. I agree with the extension of the power to sell land by auction. It is a necessity that we should have revenue; and as we have plenty of land I do not see why we should not get a fair amount of revenue out of that land. In subsection 3 of section 3 there is a reference to a grazing farm of 640 acres; but I presume that what is meant is an agricultural farm of a larger area, because, according to the Acts passed previously, the maximum area of a grazing farm is 20,000 acres, and the minimum area is 2,560 acres. I think that when a man has managed to get a small farm and his cattle have increased to a large extent, it is only fair that he should be allowed to take up another place at some distance without being obliged to live there. I should like to have seen the area increased to a good deal more than 640 acres. Referring again to pastoralists who occupied the country previous to 1884, I may say that the persons who then might have been called squatters were almost forced into surrendering their rights and coming under the Act of 1884. When that measure was being considered by Parliament, it was proclaimed in another place, and in this Chamber, by those in charge of the Bill, that the leases would be indefeasible leases; therefore, I contend that any infraction whatever upon those leases is a wrong. Having surrendered their rights, having paid a *quid pro quo* for what they received, they ought not be disturbed any more than if the land were, for the time, freehold property. There has been a covenant entered into with the Government, and that covenant ought decidedly to be kept. With respect to the timber and other licenses, the Hon. Mr. Moreton has very properly said that it was not the licensee at all who gave umbrage to the people at large by impounding the cattle of those poor men, but that it was actually one of their own people; and my experience teaches me that those people are much harder upon their fellows than others would be. But I contend that it is not fair that men who merely have a license to cut timber should be able to go on land and depasture their bullocks, whether that land consists of a grazing farm or a pastoral lease held under the Crown. There are few people who would wantonly disturb the bullocks of the timber-getter while removing the timber, but the danger of this amendment in the law is that men will, as they have done in the past, travel with their teams, and not only bring their working bullocks with them, but also cows and herds of goats. I do not see how it can be prevented, unless the regulations strictly define the right, because, in the outside districts, if men have an animus against a person they can do him very much harm by destroying fences or setting fire to grass, and in many other ways. It is therefore to the interest of the large holder not to disturb those men, but make them his friends. With regard to the opening of roads, the Minister of Justice said it was hardly necessary to discuss that question very much, but I think the opening of roads has, in practice, been very nearly as detrimental to freeholders and others as anything in the land laws. In some cases where a man has owned a freehold of considerable area, others have gone behind him and taken up land, and though a road has been surveyed adjoining the freehold, giving access to the land which those people have taken up, yet, in order to shorten the distance a little, these people have made application to have a road run perhaps right through a paddock, to the injury of the owner of the freehold. It has also been the practice for persons who have no land at all, to get their friends to have roads made through large areas belonging to one person; and there is nothing to show the boundaries of such roads. In such a case, suppose a person finds a man looking at his fat cattle, and asks him what he is doing there, the answer he gets is, "I am on the road, am I not?" The owner says, "No; you are trespassing." Then the man says, "I beg your pardon; I did not know I was trespassing; I thought I was following the road to such a place." But, instead of that, it frequently happens that instead of following the road such people are looking for fat cattle, which they intend to take away from the paddock. There are many such matters patent to those living in the country, but not so patent to those who live in towns, and I trust that there may be some little alterations made in the Bill to remedy those defects.

The HON. A. C. GREGORY said: Hon. gentlemen,—The Bill has been so fully explained by the Minister of Justice and discussed by other hon. gentlemen that I shall simply confine myself to what I look upon as a somewhat important omission in our land legislation at the present time. The matter to which I allude is that of roads which have been dedicated to the public by private persons, but which have since been found to be of no use to the public; and I will briefly state the history of the opening and closing of roads in the colony. Under the Act 4 William IV. provision was made for the opening of new roads, the alteration and closing of existing roads, and—this is more especially important in connection with the subject under consideration—roads which had been opened across lands that had been granted in fee-simple by the Crown, but were subsequently found to be no longer required for public use, were vested in the proprietors of the conterminous lands. This Act was repealed by the Public Works Lands Resumption Act of 1878, and then we come to a new phase of the matter. Clause 5 of that Act refers to the opening, altering, or diverting of roads; but though very elaborate legal formulæ are provided for opening roads, there is no mention whatever made of how the disused portions of roads which have been diverted into other routes are to be dealt with. In fact the provisions in that Act relating to the matter have been a source of far greater difficulty than any of the alleged extraordinary and peculiar conditions contained in the Acts which it repealed; and no provision was made for a

great number of cases which otherwise would have been provided for in Acts passed previously. In the Crown Lands Act of 1884, however, provision was made for remedying this defect to some extent, because the 89th and 90th clauses provided for the closure of roads not required for public use, and the sales of the land included therein to the owners of conterminous lands. In 1885 an Act which touches a little on the question was passed—namely, the Undue Subdivision of Lands Prevention Act, which deals with the roads dedicated to public use by private persons, and makes provision for their minimum width. Then we come to the administration in regard to this matter, under the Real Property Act of 1861. The 119th clause of that Act provides that the owner of any land, who desires to subdivide it into allotments, shall deposit with the Registrar of Titles a map showing the subdivisions and the roads for giving access thereto. Now it has occurred that the owner after having deposited such a map of subdivisions and sold them, the whole of the allotments have eventually come into the possession of one owner, who has also obtained from the original owner a transfer of the land comprised in the roads, and the Registrar of Titles has issued a consolidated title for the whole of the land, including the roads, as one single block—describing the external boundaries. Other cases have occurred, in which the owner of all the allotments has failed to produce a transfer of the roads, and the Registrar of Titles has refused to issue a consolidated certificate of title for the whole of the original portion. Then the Supreme Court, so far from taking the view held by the Registrar of Titles—namely, that the ownership of the roads still vests in the original owner—has decided that the original owner has no rights whatever touching the land, but that it belongs to those who purchased the allotments fronting thereon, and that their rights not only extend over the roads which formed part of the original portion of which they hold subdivisions, but to roads forming part of other portions. And the matter is in such an extraordinary state of confusion that next to nothing can be done in regard to dealing with these roads. Application has been made to the Government, in connection with these useless roads laid out through properties by private holders, to exercise the powers contained in the 89th and 90th clauses of the Crown Lands Act of 1884; but because those clauses provide that the land may be granted to the adjacent owners in fee-simple it is inferred that they are only applicable to roads which have not before been granted to anyone, and therefore cannot be applied where the land has been previously alienated. I believe that several hon. members are well aware that under the Real Property Act it has frequently happened that a man has cut up land into allotments, making provision for roads, and deposited the plans in the office, with the full intention of selling the land according to the plan so deposited. The allotments have been sold to a variety of persons, but have ultimately fallen into the hands of one purchaser, who finds that the roads originally laid down cannot be closed; so that his property is intersected by a number of roads which are useless to him and to everybody else, and yet there is no law which provides a remedy. A case in point occurred on the Logan some time ago. A person cut up land and sold it to various parties. One person got almost the whole of the land, but because the road on one side of the land he purchased led to a portion that did not belong to him, the Registrar of Titles refused to take any action with regard to the useless roads; and though the owner has applied to the Government he has got no redress. In Brisbane a case occurred in which a road ran through a portion of land towards the railway, but it was found necessary to alter the road, and now there is a narrow strip of land—between the road leading to the railway and the road made through the portion of land to which I have referred—which the owner cannot close, because there is no law to provide any means by which it can be done. I think I have said enough to show that the matter is of sufficient importance to claim our attention; and when the Bill comes before us in committee I propose to insert a clause that will afford power to close, under proper restrictions, roads which may have been laid out by private parties, and which may subsequently have been found to be unnecessary.

Question put and passed.

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

DAY DAWN FREEHOLD COMPANY'S RAILWAY BILL.

SECOND READING.

The MINISTER OF JUSTICE said: Hon. gentlemen,—In moving the second reading of this Bill, I may say that it is framed on the lines usually adopted in dealing with the construction of private lines of railway, and I will shortly explain the circumstances which render the measure necessary. It is not long since the House passed an Act to provide for the construction of a short line of railway connecting the Day Dawn Block and Wyndham Gold-mining Company's property by railway with the line from Townsville to Charters Towers. That railway was constructed for the purpose of enabling the owners of the mine to carry their quartz and ore by rail for treatment at the Burdekin River. A very extensive crushing plant has been erected there, at a cost of £60,000, for crushing stone. The line is being used by the Day Dawn Block and Wyndham Company, and this Bill is to provide for a short line of railway, 23 chains 30 links in length, to connect the mine known as the Day Dawn Freehold Gold Mine with the Day Dawn Block and Wyndham Company's branch line. The proposed line has had full consideration from the Government and their officers. The Government, after due consideration, approved of the proposal, and all the necessary requirements of the law have been complied with. The survey of the line has been made by the Government officers. The plan, section, and book of reference have been prepared, and the whole of the estimated cost of construction has been deposited by the company with the Government. I think there is very little question, therefore, as to the desirability of enabling the company to carry out their proposal to construct this short line. The effect of its construction, it is hoped, will be a very large increase of traffic on the Northern Railway, between Charters Towers and the Burdekin. It is estimated that 800 tons of stone per week will be carried from the Day Dawn Freehold Mine to the Burdekin River, and that will be of considerable advantage to the country. I need only add that I think the Bill will be found to contain all the necessary provisions for the protection of the public and the regulation of the proposed line, and I 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.

ADJOURNMENT.

The MINISTER OF JUSTICE said: Hon. gentlemen,—I beg to move that this House do now adjourn.

Question put and passed.

The House adjourned at twenty-six minutes past 5 o'clock.