Queensland

# Parliamentary Debates
[Hansard]

## Legislative Council

### THURSDAY, 26 SEPTEMBER 1889

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## LEGISLATIVE COUNCIL.

*Thursday*, 26 *September*, 1889.

Day Dawn Freehold Company's Railway Bill—third reading.—Message from the Legislative Assembly—Drew Pension Bill.—Defamation Bill—committee.—Crown Lands Acts, 1884 to 1886, Amendment Bill—committee.—Adjournment.

The PRESIDENT took the chair at 4 o'clock.

### DAY DAWN FREEHOLD COMPANY'S RAILWAY BILL.

THIRD READING.

On the motion of the MINISTER OF JUSTICE (Hon. A. J. Thynne), this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly, by message in the usual form.

### MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

DREW PENSION BILL.

The PRESIDENT announced the receipt of a message from the Legislative Assembly, forwarding, for the concurrence of the Council, a Bill to make special provision with respect to the retiring allowance of William Leworthy Good Drew, Esq., Auditor-General of Queensland, in the event of his being appointed to the office of chairman of the Civil Service Board.

On the motion of the MINISTER OF JUSTICE, the Bill was read a first time, and the second reading made an Order of the Day for Tuesday next.

### DEFAMATION BILL.

COMMITTEE.

On the motion of the HON. P. MACPHERSON, the President left the chair, and the House went into committee to consider this Bill.

Preamble postponed.

Clauses 1 to 5, inclusive, passed as printed.

On clause 6, as follows :—

"Any person who, by words either spoken or intended to be read, or by signs or visible representations, publishes any defamatory imputation concerning any person, is said to defame that person."

The HON. W. F. TAYLOR said he wished to know what was meant by "signs."

The HON. P. MACPHERSON said he would give an instance. Suppose some people were talking together, and one of them was asked, "Who stole Brown's horse?" and he pointed to Smith, but said nothing, that would be a sign.

Clause passed as printed.

Clauses 7 to 9, inclusive, passed as printed.

On clause 10, as follows:—

"1. A member of either House of Parliament does not incur any liability as for defamation by the publication of any defamatory matter in the course of a speech made by him in Parliament.

"2. A person who presents a petition to either House of Parliament does not incur any liability as for defamation by the publication to that House of Parliament of any defamatory matter contained in the petition.

"3. No person incurs any liability as for defamation by publishing, by order or under the authority of either House of Parliament, any paper containing defamatory matter."

The HON. W. F. TAYLOR said he wished to know whether the first subsection would protect a member of Parliament if he published defamatory matter knowing it to be false?

The HON. P. MACPHERSON: Most certainly.

The HON. W. F. TAYLOR said he did not think it should. He should be very sorry to have the liberty of speech in either Chamber curtailed. At the same time, he did not think it was in the interests of fair play, or common justice, that any member of Parliament should get up in his place and accuse a person falsely of saying or doing a thing which he knew that person had not said or done. Members of Parliament were not immaculate; and sometimes they were induced, by the protection which their position afforded them, to make statements, with regard to individuals, which they knew to be false. It was not in the interests either of good legislation or public morality that any person should be in a position to act in that way, and he thought it advisable that some amendment should be introduced into the clause. He therefore proposed that the words "in good faith" be inserted after the word "made," in the 21st line.

The HON. P. MACPHERSON said that however great the hardship might appear, he strongly objected to any alteration in the clause. It was simply a re-enactment of the existing law, which dated back as far as the time of William and Mary. By the Bill of Rights it was enacted that freedom of speech in Parliament ought not to be impeached or questioned in any court or place out of Parliament. The freedom of discussion of questions in Parliament, as well as the public discussion of questions out of Parliament, were two of the greatest privileges that existed under the Constitution. It was true that, in many cases, injustice had been done to private individuals, in the heat of debate, or from malicious motives—not very frequently from the latter, he hoped—but if the assailant persisted in his attack there was manliness enough in the assembly in which the attack was made, whatever assembly that might be, to do justice to the person who was attacked, and he was also happy to say that the Press was always open to anyone who was attacked in that way. It would never do to curtail the privilege, as the hon. gentleman proposed. It would be going back to the dark ages to do so. They should not think so meanly of their representative institutions as to consider that public men would descend wantonly, and for mere spite, to assail people outside. The provision which the hon. gentleman wanted to amend was simply a re-enactment of what had been British law for hundreds of years, and what he hoped would continue to be British law. He hoped the hon. gentleman would withdraw the amendment.

The HON. W. F. TAYLOR said the arguments of the hon. gentleman were strongly in favour of the amendment. If the clause was a re-enactment of a law that had existed for centuries, he maintained that it was a wrong which had existed for centuries, and now they had an opportunity of rectifying it, they would be remiss in their duty if they did not take advantage of that opportunity. He had no intention of interfering wlth the freedom of debate, or liberty of speech; but when liberty of speech degenerated into license, and people were injured in their character, and, possibly, in their position, through what any member of Parliament chose to say, that individual should have some tangible means of redress. It could not promote the cause of good legislation, or advance the interests of representative institutions, to allow license of attack to become the usual thing. If the amendment was passed it would not interfere with the freedom of speech, because any person aggrieved by a statement made would have to prove that the person who made the statement knew it to be wrong. It was all very well to say that a person had the Press open to him, but he would ask what redress an individual could get by writing a letter to the public Press? The very fact of an accusation having been made in Parliament would lead some people to believe that there must be something in it, because otherwise the accusation would not have been made. He was confident that the abuses which had crept into so many Parliaments would be very much reduced if such an amendment as he proposed were adopted. Hon. members would more carefully weigh their words before uttering them, and public affairs would be conducted in a much more courteous manner.

The HON. P. MACPHERSON said that the protection given by the clause to members of Parliament was necessary for the purpose of preventing vexatious proceedings being taken against them. He thought the hon. gentleman must have forgotten for a moment the history of England, and did not consider what it had cost England, and what it had cost the best men of that country, to obtain liberty of speech in Parliament.

The HON. W. GRAHAM said he thought it was a very dangerous thing to tamper with the privilege of free speech in Parliament, in the first place, and, in the second place, he failed to see any practical way in which the person aggrieved could prove want of good faith. If a member of Parliament said he believed the matter to be true, and considered it his duty as a legislator to mention it, and if he had done so in good faith, how could it be proved that he had not spoken in good faith?

The MINISTER OF JUSTICE said that if the Hon. Dr. Taylor had considered what practical effect the amendment would have, he ought to see that it would be of very little assistance. The line of demarcation between what was done in good faith and not in good faith, was so uncertain that it would be impossible for any person to say whether a statement made under a *bonâ fide* mistake was made in good faith, or whether it must be proved that the man had told an absolute lie. There was one reason which seemed a complete answer to the proposed amendment. It was well known that, on many occasions, public evils were not discussed as completely and freely as they ought to be in Parliament, and accusations were at times made in regard to colonial parliaments that many members remained blind and deaf to what other people saw and heard with regard to the administration of public affairs; and if the amendment were adopted it would give Queensland members of Parliament a very good excuse for being both

blind and deaf on such occasions, because, unless a member of Parliament had absolute protection with regard to everything he considered he was justified in saying, he was put into a position in which no member of any important Parliament in the world ought to be placed. Then there was a further difficulty with regard to who was to be the judge as to good faith. Was it to be a matter of direction from the judge to the jury, or was it to be decided by the jury itself? He would not attempt to define where it would rest, but in either case there were such grave objections that it would be unwise to put members of Parliament in such a position. As the Hon. Mr. Macpherson had pointed out, the right of free speech—the absolute protection of free speech in Parliament—was one of the foundations of responsible government, and that protection should not be taken away. In regard to what had been said by the Hon. Dr. Taylor, that the onus of proof should be thrown upon the plaintiff, he begged to differ from him in that matter. If it were pleaded that the speech was made in good faith, it would be for the defendant to prove that it was so made.

The HON. W. F. TAYLOR said the defendant would plead that he made the statement in good faith, then plaintiff would have to prove that he did not.

The MINISTER OF JUSTICE said the hon. member's ideas of proof, in regard to legal matters, were rather different from the usual opinions upon the subject.

The HON. SIR A. H. PALMER said if he thought the amendment proposed by the Hon. Dr. Taylor would meet the case, or prevent the use of defamatory language in either House of Parliament, he would vote for it with the greatest pleasure; but he was very much afraid it would not have that effect. He agreed with the Minister of Justice and with other previous speakers that the amendment would not have any effect whatever; but would be an unnecessary interference with the Bill, and would lead to no good results. It would be almost impossible to prove that a member who did make use of defamatory language did so in good faith. The defendant might say, "Oh, I heard it from Bill, and he heard it from Harry." That would be good faith, if he believed the story. He had great objection to the argument used by the hon. gentleman in charge of the Bill, that because this was the law in the time of William and Mary they should not alter it. If that were the rule they would not be able to alter any of these old Acts that frequently came before them. In the time of William and Mary they used to hang a man for stealing a sheep, and burn women as witches, and many a man had been hung for looking over a hedge at a horse. If the amendment would have the effect of "tipping" the tongues of hon. members—and they heard a great deal about "tipping" nowadays—it would be very useful; but he did not think it would have that effect, and it would be an unnecessary interference with the Bill as it stood.

The HON. F. T. BRENTNALL said he should be very strongly in favour of the amendment, which was not a very strong one, if he thought that it would have the effect of curbing the license of speech that was sometimes taken by hon. members. He quite agreed with the remarks made that they should not hesitate to adapt themselves to modern circumstances simply because of a reverence for antiquity, because the circumstances were totally different from those which obtained in the time of William and Mary in England. He rather imagined that members of Parliament needed to be protected in those days more against the Crown than against the public. Many a man lost his head because he ventured to express an opinion freely in Parliament against the King. But those times had passed away, and now the privilege of free speech in Parliament was, unfortunately, sometimes used to malign people from ill-will, and that tended to degrade Parliament. Besides that, a century ago, members of Parliament were elected from a very different class of men from what many of them were now in these democratic times, when they had manhood suffrage. Men went into Parliament now who by their education and training had not perhaps the same delicate instincts that members of Parliament had in those remoter periods to which reference had been made. It was an indisputable fact that in some of the Australian Parliaments language had been used of such a provocative kind that it had led to actual belligerency—fisticuffs—outside the House. Men had challenged each other to come outside and settle it, and he did not think they used to do that in the old times, although they did then challenge each other to duels. But with their democratic institutions and manhood suffrage there was less justification for granting license of speech in Parliament than there would be if members of Parliament possessed all the instincts of gentlemen, and were never likely to indulge ill-will under the cowardly right of Parliamentary privilege. Say what they might about it, it was a cowardly indulgence of a privilege when a man got up and said in Parliament what he dared not say outside against another man. It had been said a remedy for any imputation against a man's character existed in the public Press; but in reply to that he wished hon. members to bear in mind what was contained in clause 26 of the Bill, which stated the penalty incurred by any one who dared, either in the Press or anywhere else, to publish a defamation against a member of Parliament, who himself would have the right to defame anyone under privilege. If it were stated in the public Press or in public hearing that a statement made by an hon. member in Parliament was false, malignant, or malicious, that would be a libel, and the man would render himself liable, though he might have done so in self-defence or good faith, to imprisonment for two years. They would not find many newspaper proprietors who would be willing to run that risk merely to justify a maligned person. What was there unreasonable in requiring that members of Parliament should be limited in the same way that other people were in their giving utterance to defamatory language? The principle of the Bill from beginning to end, except in regard to members of Parliament, was that anything was defamatory which was not uttered in good faith. Why except members of Parliament from *bona fides*, and enact that any statements they made in Parliament need not be in good faith? There would be no remedy whatever. He should be very sorry to see that privilege wholly dispensed with, because he agreed with some of the hon. gentlemen who had spoken, that it would be a misfortune that there should be any serious curtailment in the freedom of speech allowed to members of Parliament, nor should he like to see the Bill lost for the sake of a small amendment like that. He would not wish to jeopardise the safety of the Bill as a whole, because it was a good one; but he could not see that the amendment would do very much harm.

The HON. P. MACPHERSON said allusion had been made to his statement that the same law had been in force since the time of William and Mary. That law was in force in England at present, and he hoped it would remain in force for hundreds of years to come.

The Hon. W. GRAHAM said he thought the whole thing was rather a storm in a teapot. He did not think the legislature in Queensland, at any rate, had suffered much. He had never heard anything very bad said in Parliament. He had used strong language occasionally, but had always been prepared to use stronger language outside. Cases had occurred in the other colonies, no doubt, where there had been very disgraceful scenes from accusations being thrown across from one side to the other; but, if he remembered rightly, in those cases the person guilty had come off worse than the person libelled. Even if the Press were somewhat afraid to advocate the cause of justice, as the Hon. Mr. Brentnall had said, the good sense of the community would always bring about a proper state of affairs. He did not believe in that privilege; he did not want it for himself; but was speaking to the amendment. The amendment either ought to be stronger, or omitted altogether. It could have no effect whatever, from the impossibility of proving what was good faith and what was not.

The Hon. W. F. TAYLOR said it had been stated that the insertion of the words "in good faith" would really have no effect, and they had had a very exalted legal opinion to the effect that the onus of proving the words were uttered in good faith would rest with the accused. Clause 18 said—

"When any question arises whether a publication of defamatory matter was or was not made in good faith, and it appears that the publication was made under circumstances which would afford lawful excuse for the publication if it was made in good faith, the burden of proof of the absence of good faith lies upon the party alleging such absence."

He did not see where the great difficulty arose, and even if the amendment was not strong enough, still it would possibly act as a check upon hon. members. They would know that under certain circumstances they might be brought to account in a very unpleasant manner for defamatory matter made use of by them. He certainly would have made the amendment much stronger, because his object was to prevent any member defaming the character of any individual, by making a statement that he knew to be false, and doing it maliciously, or from any other motive. That was the object he had in view, and he put the amendment in the way he had, because it appeared to be more in accordance with the principles of the Bill as expressed in clause 18.

Amendment put and negatived; and clause put and passed.

Clauses 11 to 25, inclusive, passed as printed.

On clause 26, as follows:—

"Any person, not being a member of either House of Parliament, who unlawfully publishes any false or scandalous defamatory matter touching the conduct of any member or members of either House of Parliament as such member or members, is guilty of a misdemeanour, and is liable upon conviction to be imprisoned for any term not exceeding two years, with or without imprisonment, and to be fined in the discretion of the court."

The Hon. F. T. BRENTNALL said there appeared to be a verbal error in the last line but one; the words "hard labour" ought to be substituted for the word "imprisonment."

The Hon. Sir A. H. PALMER said before they went any further with the clause, he would put it to hon. members whether it would not be better to strike it out altogether. Hon. members were sufficiently protected by clauses 25 and 27 without there being a special clause inserted for their sakes. Hon. members would notice the difference there was between clauses 26 and 27. The former said that if a man published any false or scandalous defamatory matter against a member of Parliament, he was liable to be imprisoned for a term not exceeding two years, and the latter said that any person who unlawfully published any defamatory matter was liable, upon conviction, to be imprisoned for a term not exceeding one year, and to be fined in any sum not exceeding £500. They had heard about the divinity that did hedge a king, but he would like to know what divinity did hedge a member of Parliament. Why should they be treated different from other people? They were already protected to a certain extent, and surely an offender would be severely enough punished under clause 25, which made it a misdemeanour to publish any defamatory matter concerning them, and under clause 27, which made it actionable to publish any defamatory matter. He did not see any reason for all that protection.

The Hon. P. MACPHERSON said the only reason for that greater protection was that a member of Parliament had to perform a high public function, and that it was equivalent to *scandalum magnatum* to publish any false defamatory matter in reference to him. It was a re-enactment of their Constitution Act.

The Hon. W. GRAHAM said he did not think the clause read very well. It seemed that it entitled a member of either House of Parliament to publish false statements attacking the conduct of another member. The clause might very well be left out.

The Hon. P. MACPHERSON said if a member of Parliament did that outside the House, he would be liable to the same penalties as anybody else.

The MINISTER OF JUSTICE said the clause could never apply to a member of Parliament, whether the offence was committed inside the walls of Parliament or outside of them. Members of Parliament were exempted, because the 1st line of the clause said "Any person, not being a member of either House of Parliament." It was a very strong argument the hon. member used, when he said the clause was part of their Constitution Act.

The Hon. Sir A. H. PALMER said that members of Parliament were excepted, and it followed that any member of Parliament would be at liberty to publish false or scandalous defamations against any other member of Parliament or against anybody else. He hoped the Committee would negative the clause.

The MINISTER OF JUSTICE said the clause only applied to the publication of defamatory matter against a member of Parliament by any other person. Any other person accusing a member of Parliament of scandalous conduct in his place in Parliament, or of corrupt action as a member of Parliament, would be liable to prosecution under the section.

The Hon. F. T. BRENTNALL moved the omission of the word "imprisonment" in the 6th line, with the view of inserting the words "hard labour."

Amendment agreed to.

The Hon. W. GRAHAM said he objected to the last few words of the clause—namely, "the discretion of the court." He had heard of a judge threatening to send a man to prison for forty years; and if those words were left in, a man might, in the discretion of the court, be fined £10,000. What reason was there for having those words in the clause? A maximum amount was fixed in the 27th clause.

The Hon. P. MACPHERSON said he did not know any other reason than that it was the present law. The presumption of the law was that the discretion of a judge was always wisely exercised.

The HON. SIR A. H. PALMER moved the omission of the words "the discretion of the court," with the view of inserting the words "any sum not exceeding five hundred pounds."

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

On clause 27, as follows :—

"Any person who unlawfully publishes any defamatory matter is guilty of a misdemeanour, and is liable, upon conviction, to be imprisoned for any period not exceeding twelve months, and to be fined in any sum not exceeding five hundred pounds."

The HON. W. GRAHAM moved the omission of the word "five," in the 11th line, with the view of inserting the word "three," so as to provide for a maximum fine of £300 instead of £500. He understood that the fine imposed under the 25th clause, which dealt with persons who published defamatory matter knowing it to be false, would be limited to a maximum amount of £500 on the re-committal of the Bill; and he thought that £300 would be quite sufficient in the case of persons who published defamatory matter not knowing it to be false.

The HON. W. FORREST said the clause ought to be carefully considered before any alteration was made. Under the 25th, 26th, and 27th clauses, the court had power to both fine and imprison, and there might be cases in which a heavy fine would be a sufficient punishment, but in which the court might think imprisonment necessary, if the maximum fine allowed was not sufficient. There might be cases under the 25th and 26th clauses in which even a fine of £500 would not be sufficient, and the court might be compelled to punish the offender by both fine and imprisonment. But it might be that imprisonment for two years would ruin a man, whereas he would not feel a fine of £1,000 so much, though it would be sufficient punishment. He thought that possibly the Committee were doing more harm than good by amending those clauses, and they ought seriously to consider what might happen.

The HON. F. T. BRENTNALL said the Hon. W. Forrest had possibly misread the clause. There was a very important conjunction in every one of the three clauses. It was not an optional matter with the judges whether a person convicted should be imprisoned or fined; but he might be imprisoned and fined. Under the 27th clause a man might be imprisoned for any period not exceeding twelve months and fined in any sum not exceeding £500 in addition to the imprisonment. Those severe clauses would in all probability act as a preventive of defamation; but so far as the clause now before the Committee was concerned, he thought a maximum fine of £200 would be sufficient in addition to the imprisonment. If £500 was enough in the case of publishing defamatory matter with the knowledge that there was no basis of truth in it, he thought £200 would be sufficient when the defamation was published unwittingly.

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

Clauses 28 to 33, inclusive, passed as printed.

On clause 34, as follows :—

"No one commits a criminal offence by selling any number or part of a periodical unless he knows that such number or part contains defamatory matter, or that defamatory matter is habitually or frequently contained in that periodical."

The HON. P. MACPHERSON said he had an amendment to propose with the view of extending protection to innocent sellers of periodicals in civil as well as criminal cases. He moved the omission of the words "one commits a criminal offence," in the 10th line, with the view of inserting the words "person incurs any liability as for defamation."

The MINISTER OF JUSTICE said he did not rise to oppose the amendment; but he thought it ought to be considered carefully, inasmuch as it would remove one of the checks upon the sale of periodicals containing libellous matter. It would be well to discuss and consider the matter fully, because if there was any opposition to the amendment elsewhere, there might be more objection to it than if it had been fully and carefully debated.

The HON. W. D. BOX said he failed to see why any person selling any number or part of a periodical, in the ordinary course of trade, should be liable, either civilly or criminally, for what it contained. The Committee ought not to pass a clause which would place on a bookseller the responsibility of reading every line contained in the periodicals he sold. In his opinion it would be better either to omit all the words from "unless" to the end of the clause, or to strike out the clause altogether.

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

On clause 35, as follows :—

"No one commits a criminal offence by selling a book, pamphlet, print, or writing, or other thing not forming part of a periodical, although it contains defamatory matter, if at the time of the sale he does not know that the defamatory matter is contained therein."

The HON. P. MACPHERSON said he had to propose an amendment similar to that made in the previous clause. He moved the omission of the words "one commits a criminal offence," in line 14, with the view of inserting the words "person incurs any liability as for defamation."

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

Clause 36 was amended by the omission of the word "criminally," in the 3rd line; and, as amended, agreed to.

Clauses 37 and 38 passed as printed.

On clause 39, as follows :—

"Upon the trial of an action or prosecution for unlawfully publishing defamatory matter contained in a periodical, after evidence sufficient in the opinion of the court has been given of the publication by the defendant of the number or part of the periodical containing the matter complained of, other writings or prints purporting to be other numbers or parts of the same periodical formerly or subsequently published shall be admissible in evidence on either side, without further proof of publication of them."

The HON. P. MACPHERSON said he wished to propose an amendment in consequence of some very pertinent observations which were made in regard to it, on the second reading, by the Minister of Justice, who pointed out, very forcibly, that those several numbers or parts of the same periodical, formerly or subsequently published, might not have been published by the same proprietor, or by the defendant. Therefore, he proposed to insert the words "and containing a printed statement that they were published by or for the defendant" after the word "published" in the 8th line of the clause.

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

Clauses 40 to 42, inclusive, passed as printed.

On clause 43—

The HON. P. MACPHERSON said that, as there was to be some discussion upon the clause, he would like it to be considered in a fuller Committee, and would not therefore go any further with the Bill.

On the motion of the HON. P. MACPHERSON, the House resumed; the CHAIRMAN reported progress, and obtained leave to sit again on Tuesday next.

## CROWN LANDS ACTS, 1884 TO 1886, AMENDMENT BILL.

### Committee.

On the motion of the MINISTER OF JUSTICE, the President left the chair, and the House went into Committee of the Whole to consider the Bill.

Preamble postponed.

On clause 1—

The Hon. B. B. MORETON said he would ask the Minister of Justice if he really intended to go on with the Bill, when there were so few members present. It was an important measure, and ought to be discussed in a fuller Committee.

The MINISTER OF JUSTICE said he proposed to proceed until they reached clause 3, upon which there might be some discussion.

Clause put and passed.

Clause 2 passed as printed.

On clause 3—

The MINISTER OF JUSTICE said that it would be a matter of convenience, in discussing the clause, which was a very long one, and dealt with numerous subjects, if they took each subsection separately. Considering there were so few members present, he did not wish to press the clause, but proposed to move the 1st subsection, and if any hon. gentleman wished to discuss it, he would not go on with it. Hon. members present, however, might be able to throw some light upon the subject, and he should be glad if they would do so at once, as it would facilitate the work on their next meeting day. He would therefore move the 1st subsection, which was as follows:—

"Applications to the Governor in Council under section twenty shall be made within ninety days after the decision of the board."

The Hon. W. FORREST said he thought the course indicated by the Minister of Justice was perhaps the most convenient one. Clause 20 of the original Act stated that, upon the application of any person aggrieved by a decision of the board, the Governor in Council might remit the matter to the board for their consideration, and the board should thereupon appoint a day for rehearing the matter in open court. It would be seen that the Act was silent in regard to any limitation of the term within which the person aggrieved might apply for a rehearing. The Governor in Council was not compelled to remit the matter for a rehearing by the board, and if the application was made on frivolous grounds, it was only reasonable to suppose that the Governor in Council would not grant that rehearing. If it were not a frivolous, but a serious grievance, why should men be deprived of going to the court after ninety days had elapsed? He protested that the Act was better as it stood, and, when the matter came on again, he should ask the Minister of Justice to give a sufficient reason for the proposed limitation. He would also be able to show that if the application were limited to ninety days, or even twelve months, an applicant would be debarred from receiving the justice that the case demanded. There were one or two instances he might refer to. A division of a run took place nearly two years ago, and, some time after the division took place, the neighbouring lessee decided to fence the boundary. It was rather a difficult block to determine, and it was first necessary to obtain from the Lands Office in Brisbane a description of it, and also to obtain the services of a licensed surveyor to run the boundary line. What was the result? The country was supposed to have been surveyed before; but, when they came to run the boundary line again, they found that there was not sufficient land for the first block. Instead of there being twenty-five square miles in one block, and sixteen in the second, the licensed surveyor found that there were only sixteen square miles of country altogether. How could a man in that position obtain justice, if he were limited to ninety days? He did not see the necessity for the limitation. He would give another instance. It was found in the division of a run that whereas the boundary of a block of country was marked ten miles, it was actually twelve miles; and there were no end of cases of that sort, but the lessees did not find them out at once, and how could they be settled within ninety days? The second run was not divided at the same time as the first, and it was only upon the division of the second run that the lessee of the first run found out the injustice that was being done to him.

The Hon. A. C. GREGORY said as he understood the condition of things, if they passed the clause without amendment it would actually cut off persons from relief, and it would be desirabe that they should amend the 1st subsection, in order to protect such people, and to give them, say, ninety days, after the passing of the Act, within which to make application to the Governor in Council for rehearing. There were some cases, such as those, which had been referred to by the Hon. W. Forrest, which appeared to him to belong to a class that would hardly come within the limitation of the ninety days, because he maintained that, in all cases where mistakes had been made by the board, the period within which a rehearing might be applied for would not be limited to ninety days, unless it was ninety days after the error had been discovered. The subsequent discovery of a mistake would not be the result of a decision of the board. The subsection did require some amendment, and, possibly, when they proceeded with the discussion, they might amend it. The amendment he had in his mind was that they should add the words, "Provided that in the cases of decisions of the board before the passing of the Act, applications for rehearing by the board may be made within ninety days from the commencement of the Act."

The Hon. W. FORREST said he would like the Minister of Justice to give some reason for the necessity of making any amendment at all in the original Act.

The MINISTER OF JUSTICE said that the reason offered on the second reading of the Bill was that applications had been made for rehearing as late as three years after the matter had been disposed of, and a great deal of unnecessary labour and expense had been incurred in consequence of the people holding back their applications for an unreasonable length of time. There would be no finality unless there was some limit of time proposed within which appeals should be made. This was the object of the clause, and it would not in any way deprive people of their opportunities.

The Hon. B. B. MORETON said he thought there was a good deal in what the Hon. W. Forrest had said in respect to the clause. So far as he understood, that hon. gentleman referred to cases where runs had been subdivided, and the subdivisions had been approved of by the board. It was well known that a great many of those subdivisions were made without any survey at all. They were merely made upon paper, and some time afterwards, when the adjoining lessee wished to fence, the mistake was found out. The discovery might not be made until two years afterwards, and how was the lessee to obtain any redress, if they altered the present method of dealing with matters.

The Hon. W. FORREST said if the clause were carried, he would like to know how, in the cases he had mentioned, redress was to be

obtained. Mistakes had been made by the surveyors, and those mistakes had not been discovered until some time afterwards, and in neither case would ninety days have covered the matter. Great hardship would be inflicted, and that hardship could not be redressed after ninety days. He scarcely thought that justice was being done.

The MINISTER OF JUSTICE said those errors had been made by the surveyors; but it was rules and decisions of the court that would be affected by the clause. There was no way of appealing at present to the Governor in Council or to the board against a surveyor who made a mistake, except in the ordinary way of applying to have the lease amended in proper form. So far as he had been able to follow the hon. gentleman's explanation of the cases to which he had referred, they did not at all appear to be cases which would come within the clause at all.

The HON. B. B. MORETON said he would call the attention of the Minister of Justice to the fact that when a run was divided one-half was resumed and the other was leased. Supposing that there ought to have been twenty-five square miles in each portion, and it was found that there was not the amount of land upon which that calculation was made, how was that error to be rectified?

On the motion of the MINISTER OF JUSTICE, the House resumed, the CHAIRMAN reported progress, and the Committee obtained leave to sit again on Tuesday next.

## ADJOURNMENT.

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

Question put and passed.

The House adjourned at 6 o'clock.