Queensland

Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 2 OCTOBER 1889

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LEGISLATIVE COUNCIL.

Wednesday, 2 *October*, 1889.

Statutes of Queensland.—Defamation Bill—third reading.—Messages from the Legislative Assembly—Woongarra branch railway—Cairns railway extension—Day Dawn Freehold Company railway.—Crown Lands Acts, 1884 to 1886, Amendment Bill—committee.—Stafford Brothers Railway Bill—second reading.—Queensland Executors, Trustees, and Agency Company, Limited, Bill—second reading.—Caswell Estate Enabling Bill—second reading.—Adjournment.

The PRESIDENT took the chair at 4 o'clock.

STATUTES OF QUEENSLAND.

The MINISTER OF JUSTICE (Hon. A. J. Thynne) said: Hon. gentlemen,—I am glad to be able to lay on the table of the House the revised edition of the Queensland Statutes, and to state that copies will be available to hon.

gentlemen in about fourteen days. I received an advance copy of the compilation about three months ago. It has been of immense use to me on many occasions, and I think the compilers are to be congratulated on the work they have done.

DEFAMATION BILL.

THIRD READING.

On the motion of the Hon. P. MACPHERSON, this Bill was read a third time, passed, and ordered to be returned to the Legislative Assembly, by message in the usual form.

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.

WOONGARRA BRANCH RAILWAY.

The PRESIDENT announced the receipt of a message from the Legislative Assembly, forwarding for the approval of the Council, the plan, section, and book of reference of the proposed Woongarra branch railway, from South Bundaberg to Burnett Heads, in length 9 miles 60 chains.

CAIRNS RAILWAY EXTENSION.

The PRESIDENT announced the receipt of a message from the Legislative Assembly, forwarding for the approval of the Council, the plan, section, and book of reference of the proposed extension of the Cairns Railway (supplementary section 3) from Bibhoora, 42 miles to Granite Creek, 47 miles 30 chains, in length 5 miles 30 chains.

DAY DAWN FREEHOLD COMPANY RAILWAY.

The PRESIDENT announced the receipt of a message from the Legislative Assembly, forwarding for the approval of the Council, the plan, section, and book of reference of the proposed branch railway line at Charters Towers for the Day Dawn Freehold Gold-mining Company, Limited, commencing at 0 miles 31 chains 75 links on the branch line of the Day Dawn Block and Wyndham Gold-mining Company, Limited, in length 23 chains 30 links.

CROWN LANDS ACTS, 1884 TO 1886, AMENDMENT BILL.

COMMITTEE.

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

On subsection 1 of clause 3, as follows :—

"The principal Act is hereby amended as follows:—

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

The MINISTER OF JUSTICE said he had stated on previous occasions that the provision was introduced for the purpose of securing some finality in the proceedings of the land courts, instead of leaving the decisions of the board open to revision for an unreasonable length of time. It had been argued by some hon. members that the Government were desirous of inflicting some injustice on the squatters. He thought it was a pity to introduce arguments of that kind, unless there was a substantial reason for them. The Government had no desire to show undue favour or disfavour against any class of the community, and he thought that was proved by their actions. The subsection under consideration could not be construed as introducing an improper restriction. It had been said that the time would be too short in some cases, and if that were so he could understand a proposition to extend the time to, say, six months. There might be some cases where the board proceeded on a manifest error of fact, and in such cases to absolutely shut out the lessee from a rehearing would be a hardship; and he was prepared to receive any amendment that would meet such cases as those to which he had referred. He had not hitherto received much support with regard to the subsection, and he would be glad to have some further discussion from both sides.

The HON. SIR A. H. PALMER said it was useless to waste any more time over the matter. The subsection was what he might term an under secretary's clause, and it was merely introduced to save trouble.

The HON. W. GRAHAM said he thought the feeling of the Committee was decidedly adverse to passing the clause; but it remained to be decided how they could deal with the matter. He was a believer in finality, if it could be arrived at, but it was a question what the finality was to be. He was in hopes that the Minister of Justice would have named some longer period than six months, though he (Hon. W. Graham) did not go so far as the Hon. W. Forrest, who would leave it open to all eternity. He thought, considering the interest taken by the Hon. W. Forrest in the matter, it would come better from him to state what he considered a reasonable time to allow within which applications might be made for a rehearing. The Minister of Justice yesterday dilated on the difficulty the Government would have in getting witnesses after a considerable time had elapsed, but he thought there would be no difficulty. Suppose the lessee, after three years, applied for a rehearing, on the ground that the leased portion was not so good as he thought it was, the Governor in Council would at once nip a plea of that sort in the bud, because if any mistake had been made, it would have been made through the man's own incapacity or carelessness. But in such cases as those pointed out by the Hon. W. Forrest yesterday, it would be unjust to limit the time allowed for a rehearing to less than two or three years. He should vote against the subsection.

The HON. W. FORREST said he could only repeat the reasons that he had given before against the subsection, and he did not wish to repeat himself. Under section 20 of the principal Act, which it was proposed to amend by subsection 1 of clause 3, the Governor in Council might grant a rehearing at any time, but they were not compelled to do so. As he had already pointed out, only forty-eight applications for rehearings had been made under the Act of 1884, and the number of applications granted was only twenty-six, of which a good many were made more than six months after the decision of the board had been given. He would like to dispel the illusion that, unless a limitation was fixed, the thing might go on to eternity. In the settled districts there must be a re-valuation of the holdings at the end of every five years, and, in the outside districts, at the end of every seven years; so that any man who had not applied for a rehearing before seven years would be entitled to a new hearing at the end of that time.

The HON. A. C. GREGORY said that when the Act of 1884 was passed great exception was taken to the arbitrary powers placed in the hands of the commissioners, and the Land Board. The particular subject under consideration was argued very closely as being a check upon the arbitrary decisions of the Land Board, and eventually the 20th clause was passed as it stood, so as to provide for a rehearing in any case where the Land Board might have departed from what was equitable, either from error or any other cause. If the subsection under consideration were adopted, there would be practically little or no appeal, because the majority of cases were such as could hardly be brought before

the Government within ninety days. The valuations and the settlement of the boundaries of runs could not be brought to a sudden conclusion, so that an appeal might be lodged forthwith in the office. They involved a good deal of difficulty, and the parties entitled to appeal might not be there and then accessible, and he thought a sufficient safeguard was retained in the 20th clause of the principal Act by the Governor in Council having power to refuse a rehearing in any instance in which they did not think the circumstances were such as would justify a re-opening of the question. He therefore thought it would be preferable to leave subsection 1 out of the clause.

Subsection 1 put and negatived.

Subsections 2 to 7, inclusive, passed as printed.

On subsection 8, as follows :—

"The principal Act is hereby amended, as follows:—

"The following provision shall be added to section one hundred and thirty-one :—

"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."

The HON. A. C. GREGORY said what was most feared in connection with that subsection was that timber-getters would think they had a right to depasture more animals on the land upon which they were at work than necessary. In a legal sense, perhaps, the clause was plain enough as it stood, but they must remember that the Bill, if passed, would be placed in the hands of persons who would read it, not according to legal phraseology, but according to the ordinary acceptation of the terms. Under the circumstances, he would propose that the following words be inserted after the word "depasture" in the 3rd line,—"to such an extent only as may be absolutely necessary." That addition would simply have the effect of making the paragraph more clear and distinct to those who would have to administer the law in the country, and who were not men with legal minds.

The MINISTER OF JUSTICE said he had no objection to the amendment, which was really on the lines of the clause itself. The matter it referred to would in any case be included in the regulations, but it would perhaps be an improvement to have it in the clause.

Amendment agreed to.

The HON. W. F. LAMBERT said he wished to ask the Minister of Justice if the holder of a timber license could go within half-a-mile of a station ?

The MINISTER OF JUSTICE said it was provided in the principal Act that a timber-getter could not go within two miles of a head station.

Subsection, as amended, agreed to ; and clause 3, as amended, put and passed.

Clauses 4 and 5 passed as printed.

On clause 6—"Opening roads through agricultural areas, and compensation therefor"—

The HON. T. MACDONALD-PATERSON said he wished the Minister of Justice to postpone the clause until to-morrow, as a little matter had arisen which he thought would necessitate the insertion of a fresh provision at the end of subsection 4 of the clause. There was not time to explain the matter to the hon. gentleman or to the Committee just then, but he would be quite ready to do so to-morrow.

The MINISTER OF JUSTICE said he was quite willing to allow the clause to be postponed.

Clause postponed.

Clause 7 passed as printed.

On clause 8, as follows :—

"Section twenty-five of the Crown Lands Act Amendment Act of 1886 shall be read and construed as if instead of the words 'twelve months' inserted therein the words 'three years' had been therein inserted."

The HON. T. MACDONALD-PATERSON said he noticed that the Bill did not provide for what obtained in some of the other colonies, where there were deferred payments for land, and that was the payment of a modest rate of interest. The system worked very well in Victoria, where it was quite a popular law, that the Government when giving three years' terms for the payment for land, might charge some 5 per cent. or 6 per cent. interest upon the unpaid balances. He knew a clause dealing with the matter could not be now inserted ; but he would like to know if the matter had ever been under the consideration of the Government.

The MINISTER OF JUSTICE said he did not know that it was necessary that he should explain whether the matter had been discussed or not, but he might say that the Government were quite satisfied with the arrangements that were made in the clause. If they had thought it desirable that interest should be paid, they would have proposed it in the clause.

Clause put and passed.

Clauses 9, 10, 11, and 12 passed as printed.

On clause 13, as follows :—

"Upon the proclamation by the Governor in Council of a goldfield under the provisions of the Gold Fields Act of 1874, or of a mining district under the provisions of the Mineral Lands Act of 1882, upon or partly upon any land held under lease for pastoral purposes under Part III. of the principal Act, or upon or partly upon any grazing farm, the proclamation shall, at the option of the lessee or licensee, have the effect of a 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.

"Where a part only of a grazing farm has been resumed under any such proclamation, the lessee or licensee thereof may, within three months from the date of the proclamation, serve on the Minister a notice in writing that he desires that the residue of his farm shall be resumed. Thereupon the residue of such farm shall be deemed to have been resumed under and by virtue of such proclamation, as on and from the date of the service of such notice.

"The provisions of the first three subsections of section one hundred and two of the principal Act shall not apply to resumptions taking effect by virtue of the provisions of this section."

The MINISTER OF JUSTICE said he was inclined to think that the clause would be better without the words "at the option of the lessee or licensee." If they were left in, there would be a great amount of uncertainty as to whether the land really belonged to the lessee or not. It would be better when land was resumed to be thrown open as a goldfield, that it should at once come under the new jurisdiction. He moved the omission of the words he had suggested.

The HON. W. FORREST said he would like to have a further explanation from the Minister of Justice as to the full effect of the proposed amendment. It seemed very simple, but hon. members would find it much more comprehensive than it looked. It was proposed to take away the right of a lessee to say, when part of his run was proclaimed a goldfield, whether or not he would take that as notice of resumption.

The MINISTER OF JUSTICE said the difficulty he saw in the clause, if those words were retained was, that when land proclaimed as a goldfield included a portion of a holding there

was no means of ascertaining or distinguishing whether it was really a resumption or not. If those words were left in, a lessee might say, "Well, I shall not allow my holding to be resumed;" and the lessee would, therefore, have the power of saying whether a particular portion of land should be included in the goldfield area or not. Those words absolutely negatived the intention of the clause. It would not rest with the Governor in Council to resume land; it would rest with the lessee, and it would cause much difficulty in adjusting the relative rights of parties who might have to deal with the land, or any portion of it, which might be included in the goldfield.

The HON. W. FORREST said he did not agree with the Minister of Justice. The effect of the amendment would be that the Government might proclaim a goldfield area on some person's run, or on a portion of it. Such part would be defined as resumed, but the lessee would have the option of taking that as the resumption of the whole of his run. According to the amendment, if there was a goldfield proclaimed on a run, it meant really notice of resumption of the whole of that consolidated run. He thought they should not accept the amendment. They all knew that goldfields had been proclaimed in places where there was very little gold. A few miners would go there, and in a little while there might not be a miner on the ground; but the lessee of the run upon which the goldfield had been proclaimed would find himself without any land at all. They had better let the clause and the amendment stand over.

The HON. T. MACDONALD-PATERSON said he could not take the view of the amendment that the Minister of Justice did. On first reading the clause he concluded that the lessee of a pastoral holding had the option of accepting the proclamation as a notice of resumption of a certain area of his territory; but the action of the lessee would have no effect whatever as to the rights of the Crown to proclaim that gold might be searched for on that land. He understood that it was meant that it would be at the option of a lessee to say, "It shall have the effect of a resumption." The lessee might not regard it as a resumption. He might say that he had no objection to the diggers being there, and that he would continue to hold the land.

The HON. F. T BRENTNALL said he would like to know whether the amendment would interfere with the indefeasible titles of which they had heard so much—the twenty-one years' leases. If the Governor in Council, upon a peremptory proclamation being made, could resume a run for gold-mining purposes, of which the lessee, according to the Amendment Act of 1885, was supposed to have an indefeasible lease for twenty-one years, the lessee would have no option. The indefeasibility of the lease seemed to be sustained if the lessee had the option of saying whether he would consent to the resumption or not.

The HON. A. C. GREGORY said as the clause stood, it would have this effect: The lessee of a run might receive notification of a proclamation which would have the effect of throwing his holding open to the gold miners to search for gold and work it. If the words proposed to be omitted were retained, it would be at the option of the lessee to say, "You must resume that portion of my run, because it will be worthless," or else, "I do not believe this goldfield will be any hindrance, and I still wish to be the lessee of the land." At first it was rather difficult to understand the meaning of the words because they stood comparatively alone, and it was necessary to look at the other Acts and see how they affected them. Under those conditions he thought when the Government proclaimed any one of these indefeasible leases open to gold miners to go upon it, the lessee had the option of saying whether he would continue to hold the lease, and pay rent, and retain the surface rights, or whether he preferred to throw the thing up, and have nothing more to do with the land.

The MINISTER OF JUSTICE said he thought the weight of argument was in favour of the retention of the words, and he would therefore ask leave to withdraw the amendment.

Amendment, by leave, withdrawn, and clause passed as printed.

Clause 14—"Provision as to grazing farms mined on before passing of this Act"—passed as printed.

On clause 15, as follows:—

"Section six of the Titles to Land Act of 1858 shall be read and construed as if instead of the words 'three' and 'three months' therein inserted the words 'two' and 'thirty days' had been therein respectively inserted."

The HON. A. C. GREGORY said the clause was a proposed amendment of section 6 of 22 Victoria No. 1, which dealt with the correction of errors in deeds. As the clause stood, thirty days' notice must be given in the *Government Gazette* and a local newspaper of any intention to amend a title. It frequently happened that errors in deeds were discovered when property was transferred from one person to another; but those errors were often of a verbal character. When an error was discovered it was necessary, under the Titles to Land Act of 1858, to move for its correction, and under that Act it took about three months to correct the title, even when the error was of a purely verbal character. The delay of three months was vexatious to those interested, but beneficial to nobody; and there was no case that had come under his notice in which any harm would have been likely to accrue from the matter being dealt with more promptly. He therefore moved that the word "thirty" be omitted, with the view of inserting the word "fourteen," so that greater facility might be given for carrying out the correction of errors in deeds.

The MINISTER OF JUSTICE said that the 6th clause of the Act of 1858 provided that "no such instrument shall be signed unless the intention to make and sign the same shall have been notified under the hand of the Secretary for Lands and Public Works, by three separate publications in the *Government Gazette*." It was now proposed to alter that to two separate publications in the *Gazette*. The clause further provided that it should also be notified "in some newspaper circulating in the district in which the land is situated three months, at the least, before the time of such signing." The proposal in the clause was to make the time thirty days instead of three months, and the Hon. Mr. Gregory's proposal was to make the time fourteen days only. If the hon. gentleman's amendment were carried the notices required before correcting a deed of grant would be two publications in the *Government Gazette* and in a local newspaper, notice being given at least fourteen days before the necessary document making the correction was signed. In speaking on the second reading of the Bill he had pointed out that the Act of 1858 was passed when communication was very much more slow and uncertain than at present; and it was time that some substantial reduction was made in the period occupied in making those corrections; but whether fourteen days would be quite sufficient or not was a matter for the Committee to decide.

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

Clause 16—"Road reservations in grants may be sold to grantee"—passed as printed.

The HON. A. C. GREGORY said he had a new clause to propose, as follows:—

All lands which are now or may be hereafter dedicated to the public as roads under the provisions of the Real Property Act of 1861, or the Real Property Act of 1877, by the deposit with the Registrar of Titles of plans of subdivisions of lands, and roads for access thereto, shall be deemed to be thereby revested in the Crown, and may be dealt with in the same manner as any other roads which have been directly dedicated to the public use by the Crown.

The object of the clause was to meet a difficulty which had existed since the year 1878, when the old Act dealing with the closing of roads was repealed by the Public Works Lands Resumption Act. It was true that the 89th and 90th clauses of the Act of 1884 provided for the closing of roads in certain cases; but it had been ruled that the power contained in those clauses was restricted to roads dedicated to the public use by the Crown, and could not be applied to lands dedicated as roads for the public use by private parties. It was well known that under the provisions of the Real Property Act land could be dealt with almost like a chattel; and it was important that the subdivision of land should be carefully regulated and facilitated. Instances had frequently occurred in which a person had subdivided his land, and lodged with the Registrar of Titles a plan showing the roads which were dedicated to the public. If at any subsequent time the whole of the allotments fell into the hand of one party, who also managed to get from the original possessor a transfer of the roads, it had been the practice of the Real Property Office to issue a consolidated certificate of title of all the allotments and all the roads together. But it frequently happened that the original owner had passed out of sight, so that there was no possibility of getting his formal transfer of the roads, and great inconvenience had arisen in consequence, because in such cases the Real Property Office would not issue a certificate of title to the whole of the land including the roads. Many instances had occurred to his knowledge, and he might mention one that happened not far from Brisbane. There were two roads passing through a piece of land, and it was found more convenient to have one road in lieu of the two, and that the one road should run down to a railway station. The owner of the land was willing to give the new road, provided the two old ones were closed. The new one was far better for the public, but there were no means of closing the two existing roads, and when the new road was proclaimed, there were three roads running within a distance of six or seven chains of each other. Of course that damaged the property to a very large extent, and no one got any benefit. There was another case brought to his notice yesterday by the clerk of the divisional board near Humpybong. A person there owned a piece of land, with a road through it, going from the main road to the creek, where there was a mud flat. The public wished to have another road to a place where there was deep water and a good bathing place. The owner of the land was willing to hand over a chain and a-half through his land to make the new road, if the old road were closed, and he were allowed to take possession. But that could not be done, because there was no law which provided for the closing of roads under those conditions. He thought he need not detain the Committee any longer on the subject, as many hon. members must be aware of the difficulties that had arisen in connection with those matters. He therefore moved that the new clause he had read be inserted, to follow clause 16.

The MINISTER OF JUSTICE said that the clause would be a very useful one. A similar clause was included in the Bill, as introduced in the other Chamber, but he thought it had been omitted through some misapprehension. There were two classes of roads in the colony—namely, roads reserved and set apart by the Government on their original surveys, or surveys made in connection with resumptions, and roads which were opened by private parties in subdividing their land, to make provision for public traffic. With regard to both classes the right of the public to use the roads was exactly the same, but with regard to the legal title, one was vested in the Crown, and the other remained registered in the Real Property Office, in the name of the original subdividor of the property, who really reserved to himself no greater interest or beneficial use in the roads than he gave to everybody else. Hence had arisen a difficulty, which had proved to be a serious one in one or two cases, with respect to closing those roads and re-vesting them in other parties. The Crown had power to close roads dedicated by the Crown itself, but the power to close a road dedicated by a private individual was incomplete, and he thought it was time the law was altered so as to give the same rights to the Crown with regard to closing both classes of roads. He knew of several instances in which parties were waiting for some such amendment in the law, and he had every reason to believe that it would prove a useful provision in a great many other instances in the future.

New clause put and passed.

The House resumed; the CHAIRMAN reported progress, and obtained leave for the Committee to sit again to-morrow.

STAFFORD BROTHERS RAILWAY BILL.

SECOND READING.

The HON. P. MACPHERSON said: Hon. gentlemen,—This is a Bill to legalise—not to authorise—the construction of a small railway, branching from the Southern and Western Railway, between Bundanba and Dinmore, to the colliery of Stafford Brothers. The Bill is a short one; the line is also a very short one, being only thirty-three chains in length; and I shall endeavour to be as brief as possible in my remarks. During last session a Bill was introduced to authorise the construction of this line, but too late to comply with the Standing Orders of the Legislative Assembly. Subsequently, however, Stafford Brothers opened up their mine, and accepted some large contracts for the supply of coal. In order to carry out those contracts, they requested the sanction of the Government to the construction of the line, and the line was accordingly built under the supervision of the Government engineers. I believe I am correct in stating that Stafford Brothers are working one of the best beds of coal in the West Moreton district, and that the line will be a very good one from a revenue point of view. The provisions of the Bill are almost the same as those of the Day Dawn Freehold Gold-mining Company's Bill which we passed the other day, and I will not detain the House further, except to make a short quotation from the evidence given before the select committee by Mr. Cross, as follows:—

"You are the Engineer of Existing Railways? Yes; Engineer of Existing Railways—lines and branches of the Southern and Western Railway.

"You know the Stafford Brothers branch line? Yes; it starts from 19 miles 51 chains 47 links from Brisbane, and it is 33 chains long.

"It has been made under your supervision? Yes. The portion between the railway fences only was carried out by the Railway Department; Stafford Brothers constructed the other portion, on their own land, through other private land, and over the public road.

"You supervised the whole line? Yes; the whole of it.

"I suppose it is made as all existing lines are—the same gauge, etc.? Yes; it is a very well constructed branch—as well as any private siding we have—and it is well protected by signals and interlocking.

"It has a slight incline? Yes. It is almost level near the pit.

"There is no chance of the trucks getting away? No. It is level for seventeen and a-half chains from the pit.

"Is there any danger to the main line? No danger to the main line. It has been working satisfactorily from the time it was opened, about the 31st January last."

I do not think it is necessary for me to quote any further from the evidence in reference to the Bill. The only excuse I can offer for the line having been constructed in anticipation of legislative authority, is that it is a very little one. I beg to move that the Bill be now read a second time.

Question put and passed.

On the motion of the HON. P. MACPHERSON, the committal of the Bill was made an Order of the Day for to-morrow.

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

SECOND READING.

The HON. A. C. GREGORY said: Hon. gentlemen,—In rising to move the second reading of this Bill, I will simply state that the Bill, according to its title, confers powers upon the Queensland Executors, Trustees, and Agency Company, Limited, which will enable them to take up the business of trustees and executors, as a company. The question has been pretty well ventilated in the course of previous debates upon the inauguration of another such company this session, and I do not think that it is necessary for me to detain the House long in regard to the object of the Bill. We all know how difficult it is when people are not conversant with the ordinary forms of legal proceedings, to prepare a will, or properly nominate their executors or trustees, or to act as executors or trustees themselves. Numerous mistakes arise and considerable loss also, more through ignorance than want of honesty, although I regret to say that cases of serious loss have occurred through want of honesty. There is nothing particular in the form of the Bill. The company may, by the investing of £20,000 in the purchase of Government debentures, show the usual security that is required by the Supreme Court in the case of an administration of an estate, and take out letters of administration. That money will show the *bona fides* of the company, and it will be virtually in the hands of the Colonial Treasurer, and the assets of the company will be liable for the proper administration of estates, and the due execution of their trusts. Every provision is made for the court to interfere in cases where parties feel themselves aggrieved. Of course, in a Bill of this nature there is a great amount of what may be termed purely technical matter, in order to provide for the various contingencies that may arise, and it is scarcely necessary to go into those details on the second reading. Taking it as a whole, the Bill is one which will be exceedingly useful to the public, and it is very desirable that there should be greater facilities for the proper transaction of that class of business, which has hitherto been exceedingly obscure and difficult to understand. I therefore trust the Bill will pass through the House, and give the parties who propose to undertake this matter, for the benefit of themselves as well as the public, an opportunity of carrying their operations into execution. I move that the Bill be now read a second time.

Question put and passed.

On the motion of the HON. A. C. GREGORY, the committal of the Bill was made an Order of the Day for to-morrow.

CASWELL ESTATE ENABLING BILL.

SECOND READING.

The HON. P. MACPHERSON said: Hon. gentlemen,—I have to move the second reading of this Bill, which is to enable the trustees under the will of the late Mr. H. D. Caswell to mortgage certain real and personal estate vested in them, and to enable them to carry on the deceased's business as a grazier, until the youngest surviving child has attained the age of twenty-one years, or longer as may be found beneficial, and also to indemnify them in respect to the carrying on of business. There is also a provision in the Bill for the appointment of a new trustee, Mr. Clive Elliot Caswell, the eldest son of the deceased. Clauses 6 and 7 of the petition are as follows:—

"The testator's real estate consists of (1) 18,836 acres of land in fee-simple, charged with a secured liability of six thousand pounds or thereabouts; (2) a half-share as tenant in common with one Patrick Mackay in 10,240 acres of land in fee-simple, charged with a secured liability of two thousand pounds, or thereabouts. The testator's personal estate consists of (1) freehold property in Queensland, with about 1,300 cattle and 100 horses thereon; (2) a selection of 2,610 acres of land; (3) an interest under the will of William Caswell, deceased; (4) a half-share in a partnership business as graziers carried on with Patrick Mackay with about 6,000 cattle and 40 horses.

"The estimated value of the testator's estate, i realised under favourable conditions, is £35,000."

The Hon. A. Norton, who was one of the trustees, said in his evidence:—

"In paragraphs 8, 9, and 10 of the petition, you give the reasons why you are asking for the Bill. Would you mind repeating them?—I want you to state what drove the executors or trustees—as you are now—why you were compelled, to ask for the powers you ask for? We ask for the powers sought to be obtained by the Bill, because the arrangements we have made for carrying on the estate are only tentative. We have paid off all the liabilities, except those due to the bank, nearly all of which were incurred by Mr. Caswell, and by Mr. Caswell and Mr. Mackay, as partners, previous to Mr. Caswell's death. Under ordinary circumstances I am quite sure the committee will understand that the executors would be most anxious to relieve themselves of the responsibility of carrying on an estate of that nature; but, owing to the depreciation in the value of property, the general commercial depression caused by bad seasons, and other obstacles in the way of selling station property, it would be absolutely impossible to realise what we consider a fair price for the estates we are administering, having regard to the interests involved. I may say that Mr. Mackenzie agreed with me that it was most undesirable to sell the properties at a rate which might be considered a sacrifice; and, therefore, we determined to ask for the powers to carry on, in order that if the bank required us to give them security for the debt we could do so.

"Did you see whether you could get that power without coming to Parliament? Well, we did not apply to the court, because we were told it was simply useless to apply. I saw Messrs. Hamilton, the solicitors, about it; and they looked back to a number of cases for several years past, and they told me that in no case could they find that the court gave that power. In all cases the court absolutely refused it, and told the applicants that they must apply to Parliament, as the court would not give or grant a power which was not given by the will. I can tell you with regard to the working of the Tararan estate, which is Mr. Caswell's freehold, and the selection on the Burnett, at the end of last June. The operations during the year ending 30th June left an improved value—that is, the value of the property itself and the stock on it has improved. The operations on the partnership estate for two years have given us an increase of about 1,500 head of cattle. We have reduced the liability from £4,788 18s. 6d.,

from 1st July, 1888, to £3,658 15s. 3d.; and we have also drawn £1,000—that is, the extra profit which we have divided between the two private estates. That is £1,100 reduction.

"That is on one of the properties? That is on the partnership property.

"And £500 each; that is, between Mackay and Caswell? Yes.

"You ask for powers to carry on until the youngest child is twenty-one years of age; but you do not propose to carry on if you can realise meantime? We propose to sell as soon as we can get what we consider a favourable price, and to invest the money in such a manner as may be found best to enable the family to draw an income."

Those are briefly the facts of the case, and the objects of the Bill under the circumstances are most reasonable. In most cases Parliamentary interference is to be deprecated, but when Parliament can find the means of carrying out a testator's intentions for the benefit of all concerned, it is a most laudable thing to do, and I therefore have much pleasure in moving that the Bill be now read a second time.

The MINISTER OF JUSTICE said: Hon. gentlemen,—I think the passing of an Act of Parliament to alter or extend the provisions of a will is a matter which requires serious attention; but a close examination of the circumstances of this estate, and of the actions hitherto of the executors, will show that the executors are actuated by a most laudable desire to do the best for the estate. The enactment that is asked for, is only really furthering what was the intention of the testator, and giving the executors the necessary powers. I do not think that the powers that are sought for are very serious alterations of the provisions of the will itself, and I therefore think the Bill is one which we can with due caution, pass without much question.

Question put and passed.

On the motion of the HON. P. MACPHERSON, the committal of the Bill was made an Order of the Day for to-morrow.

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 ten minutes to 6 o'clock.