

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 4 AUGUST 1892

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"Agree to the amendments of the Legislative Council in clause 25 (now 27), with the following consequential amendment:—Line 37, as now printed, omit 'the,' insert 'a'; in which consequential amendment they invite the concurrence of the Legislative Council; and

"Agree to the other amendments of the Legislative Council.

"A. NORTON,
"Speaker.

"Legislative Assembly Chamber,
"Brisbane, 3rd August, 1892."

The SOLICITOR-GENERAL (Hon. T. J. Byrnes) said: Hon. gentlemen,—With the consent of the House, I move that the President do now leave the chair, and the House resolve itself into a Committee of the Whole to consider the message. It is important that this message should be considered to-day, and that the Bill should become law as soon as possible.

The PRESIDENT: According to the rule, unless otherwise directed, the House can consider the message on the day on which it is received.

Question put and passed.

COMMITTEE.

On the Legislative Assembly's amendment in the new clause (now clause 18),

The SOLICITOR-GENERAL moved that the Legislative Assembly's amendment be agreed to. It was a matter that had been the subject of considerable discussion elsewhere, and they had come to the conclusion that in many electorates it would place a great deal of extra work on the presiding officer, and that it would be impossible for him to mark the ballot-papers both on the face and on the back. By the Legislative Assembly's amendment it was proposed that the marking should be on the back of the ballot-paper, and on the back only.

The HON. A. C. GREGORY said that though he would have preferred to have had the paper initialled on the back as well as the front, still it was not essential that the paper should be marked except externally, so that the presiding officer might identify the paper when it was put into the ballot-box. Under the circumstances, and considering the urgency of getting the measure through, it would be advisable to accept the Legislative Assembly's amendment.

Question put and passed.

The Legislative Assembly's amendments in clauses 23 (now 25) and 25 (now 27) were agreed to.

The House resumed; and the CHAIRMAN reported that the Committee had agreed to the amendments made by the Legislative Assembly on their amendments, and to the consequential amendments in clauses 23 (now 25) and 25 (now 27).

The report was adopted; and it was ordered that a message be transmitted to the Legislative Assembly, intimating that the Council had agreed to the amendments made by the Assembly on their amendments, and the consequential amendments in clauses 23 (now 25) and 25 (now 27).

ELECTORAL DISTRICTS BILL.

SECOND READING.

The SOLICITOR-GENERAL said: Hon. gentlemen,—This is a Bill to provide for the division of the electoral district of Burke into two electoral districts—one to be called the electoral district of Burke, and the other the electoral district of Croydon. At present the electoral district of Burke is in the nature of a country electorate, and it is the only country electorate which is a double electorate. Although it is in the nature of a country electorate, it has one large centre of population—namely, Croydon. It is now proposed that there shall be two

LEGISLATIVE COUNCIL.

Thursday, 4 August, 1892.

Elections Bill: Message from the Legislative Assembly: Committee.—Electoral Districts Bill: Second reading.—Mining Companies Act Amendment Bill: Committee.—Railways Construction (Land Subsidy) Bill: Committee.—Adjournment.

The PRESIDENT took the chair at 4 o'clock.

ELECTIONS BILL.

MESSAGE FROM THE LEGISLATIVE ASSEMBLY.

The PRESIDENT announced the receipt of the following message from the Legislative Assembly:—

"M. S. PRESIDENT,

"The Legislative Assembly having had under consideration the Legislative Council's amendments in the Elections Bill—

"Propose to amend the proposed new clause to follow clause 17 (now 18) by the insertion after the first paragraph of the following words:—'in ink or pencil, instead of so marking the same on the face as prescribed by the seventy-first section of the principal Act, and so much of that section as requires the presiding officer to so mark a ballot-paper on the face thereof, is hereby repealed'; in which amendment they invite the concurrence of the Legislative Council.

"Agree to the amendments of the Legislative Council in clause 23 (now 25), with the following amendment:—Line 9, as now printed, after 'vote' insert 'or votes'; and as consequential amendments—Line 10, as now printed, after 'candidate' insert 'or defeated candidates,' and after 'one' insert 'or those two.' Line 13, as now printed, after 'vote' insert 'or votes'; in which amendment and consequential amendments they invite the concurrence of the Legislative Council.

electoral districts, Croydon being the centre of one, and Georgetown the centre of the other. There are several reasons why the present electoral district of Burke should be divided. One reason is that it is too large a district to canvass when there is an election. Then the interests of Georgetown and the surrounding country are not exactly the same as those of Croydon and the surrounding district; and it is far better for both parts that the electorate should be divided into two, and each return a separate member. Hon. gentlemen will see that clause 4 provides for the first electoral rolls of the separate electoral districts. It provides that so much of the existing electoral roll for the electoral district of Burke as contains the names of electors for the present electoral division of Etheridge shall become and be the electoral roll for the electoral district of Burke, and so much of the existing electoral roll as contains the names of electors for the present electoral division of Croydon shall become and be the electoral roll for the electoral district of Croydon. Then the 2nd subsection of the clause provides for claims, and how they are to be inserted in the respective rolls. Clause 5 provides for a possible, though not probable, contingency. There may be a vacancy in the district during the present Parliament, and, if so, the election is to be fought as if the district had not been divided. The Bill is a matter which concerns another place probably more than this House; and I move that it be now read a second time.

Question put and passed; and the committal of the Bill made an Order of the Day for Tuesday next.

MINING COMPANIES ACT AMENDMENT BILL.

The SOLICITOR-GENERAL said: Hon. gentlemen,—I regret to inform the House that the Hon. Mr. Thynne is absent through illness. He has asked me to take charge of this measure, and I therefore move that the President do now leave the chair, and the House resolve itself into a Committee of the Whole to consider the Bill.

Question put and passed.

COMMITTEE.

The clauses and the preamble were agreed to without discussion.

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

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

RAILWAYS CONSTRUCTION (LAND SUBSIDY) BILL.

COMMITTEE.

On the motion of the SOLICITOR-GENERAL, the President left the chair, and the House went into committee to consider this Bill.

Preamble postponed.

Clause 1 passed as printed.

On clause 2—"Interpretation"—

The HON. A. C. GREGORY said he did not object to the clause, but he wished to make a few remarks with reference to the term "Crown lands," because a good deal would turn on that expression in the discussion of subsequent parts of the Bill. On reference to that part of the Crown Lands Act of 1884 in which the definition of the term "Crown lands" appeared, it would be found that Crown lands were "all lands vested in Her Majesty which are not for the time being dedicated to any public purpose or subject to any deed of grant, lease, contract, promise, or engagement made by or on behalf of Her

Majesty, and all lands which are subject to a right of depasturing under Part III. of this Act, or are held under an occupation license under Part V. of this Act." Briefly, the term "Crown lands" included all vacant lands under pastoral occupation, as under clause 31 of Part III. of the Act of 1884, and also all lands under annual occupation licenses, as under clause 77 of the same Act, but it did not include pastoral leases under the Act of 1884, or pastoral leases under the Act of 1869. He adverted to the matter now because hon. members might be discussing things to no purpose unless they clearly kept before them the exact words of the definition that was given in the principal Act which was referred to in the clause now before the Committee.

The HON. W. FORREST said he was very glad that explanation had been given, because some uneasiness had been caused amongst pastoral lessees through a misconception of the meaning of the words "Crown lands." There was a general idea that "Crown lands" meant land not alienated, and therefore they were under the impression that any portion of a run might be taken. He rose to emphasise what had been said by the Hon. Mr. Gregory and by the Solicitor-General, that all existing rights were reserved, and that no land held under pastoral lease would be available to pay for railways constructed under the Bill. If the idea got abroad that the pastoral lessees were likely to be interfered with, it would have a disastrous effect upon their credit, which was not too high already.

The SOLICITOR-GENERAL said he was surprised to find that there was any uneasiness. Of course the pastoral lessees would be protected, and it was only the resumed portions of the runs, for which occupation licenses were held, that were liable to be taken away.

The HON. F. CLEWETT said it was very desirable to hear such an emphatic declaration from the Solicitor-General, because he could endorse what had been said by the Hon. Mr. Gregory in regard to the uncertainty which had existed, and, no doubt, still existed in the minds of many regarding the meaning of the term. He had always been under the impression that lands held under lease came within the meaning of "Crown lands." He meant to have referred to the question on the second reading of the Bill, and would have done so had the Solicitor-General not made it clear that the construction intended to be applied under the Bill to the term "Crown lands" left lands held under lease outside the meaning of the term. Notwithstanding that, he was certain that the majority of ordinary people, and the lessees themselves, were under the impression that the lands they held were considered Crown lands, and it might be desirable to introduce an amendment to remove that impression. The removal of that apprehension might also remove possible opposition to the Bill, and relieve a great deal of anxiety.

The HON. W. F. TAYLOR said he was under the impression that "Crown lands" included leasehold lands, but he would like to know if a railway ran through those lands, where the land was to be reserved. Clause 6 said that when the Governor in Council thought it desirable that a railway should be constructed, and that Crown lands should be granted by way of subsidy for its construction, they might reserve and set apart for the purpose of the subsidy a sufficient area of Crown lands adjacent to the line of railway to provide for the land so to be granted, and also for the alternate choice directed by the Bill. Evidently the land was to be as near as possible to the proposed line of railway. Then the clause said that, if practicable, the reservation of the land should be on both sides of the proposed line of railway, and as nearly as possible

in equal areas on each side. But if there was not sufficient on either side, the whole might be reserved on one side. That clause led him to understand that the land would be reserved as near as possible to the railway whether it was leasehold or not. But if the Solicitor-General said he was in error he would accept his explanation.

The SOLICITOR-GENERAL said the hon. gentleman asked a question it was impossible for him to answer. Where the land was to come from would be a matter of arrangement between the contractors and the Government when the railway came to be constructed. So far as possible the land to be given would be contiguous to the line, because both the Government and the company would gain by having the line running through their land. But if there was no land contiguous it must be obtained elsewhere.

The HON. SIR A. H. PALMER said he understood the Solicitor-General to say that all lands under lease or license were not Crown lands.

The SOLICITOR-GENERAL: Under lease; not under license.

The HON. SIR A. H. PALMER said he would like to know how many leases there were in the colony?

The SOLICITOR-GENERAL: Leases, or promises, or engagements to lease?

The HON. SIR A. H. PALMER said he knew a great many promises; but he would like to know where the land was to come from, because the greater part of the colony was under lease, or promise to lease.

The SOLICITOR-GENERAL said there would be a considerable amount of land available in the shape of the resumed areas of runs, and if there were a map showing the amount of land available hon. members would be astonished at the quantity. He saw a map at the Lands Office a few days ago, and there was an enormous amount of land available. There were the resumed parts of runs and certain lands held under grazing rights and occupation licenses which were available, and there was a lot of land in the colony which had not been taken up at all.

The HON. SIR A. H. PALMER said he forgot about the resumed parts of runs.

The HON. F. CLEWETT said he would like to have it clearly understood in regard to lines going through leaseholds whether the lands on each side of such lines were to be available, or if the blocks of land were only to be taken out of the resumptions. If the latter were the case the selections would have to be made at some considerable distance from the line. The Bill provided for land being taken upon each side of the line if there were a sufficient quantity, and if not, then on one side. But supposing there was no land on either side, what would be the position? The land would have to be taken out of resumptions elsewhere; was that the position?

The SOLICITOR-GENERAL said it might be so.

The HON. J. T. SMITH said it seemed that the principle of the Bill would be destroyed, because the alternative system proposed to be adopted would be altogether abolished, and the contractors would be able to pick the eyes out of the country.

The SOLICITOR-GENERAL said the Bill proposed alternate selections, not alternate blocks.

The HON. J. T. SMITH said it involved the principle of alternate blocks, and it further said that the choices should not be contiguous. According to the reading of the Solicitor-General, Crown lands under lease could not be made available for the purpose of satisfying the contractors.

If a line ran altogether through leased land the contractor would be able to select land elsewhere and do serious injury.

The SOLICITOR-GENERAL said they were somewhat premature in discussing that point, because clause 6 provided that the Governor in Council should set out the area out of which the land should be taken, and of course that area would not include land which was not available for the purposes of the subsidy, such as leased lands. The contingency pointed out by the Hon. Mr. Smith was not likely to arise, because he did not think either the contractors or the Government were such fools as to run a line of railway hundreds of miles through land which would allow it to do good only to people other than themselves. The railways would, in most cases, run through Crown lands.

The HON. F. CLEWETT said he did not think the inference the Solicitor-General drew from the remarks of the Hon. Mr. Smith altogether bore upon the point, because they did not suppose that any company would build a railway for the special benefit of the people through whose land it ran, nor were the Government likely to consent to such an arrangement. What they wanted was to have it made clear what the conditions were under which the work was to be carried out. A number of important interests might be affected, and if the debate cleared away the uncertainty that existed in the minds of a great number of people it would have a very good effect. They only wanted to understand what the position was.

The HON. A. C. GREGORY said the amount of land available would depend entirely upon the part of the colony the line was going through. There were no pastoral leases at all in some of the coast districts, while, on the other hand, the line might run through the midst of pastoral leaseholds in which there would be only the resumed parts of runs to grant. Under any circumstances, before any contract could be even rough-drafted, it would be indispensable that a map should be prepared of the area proposed to be brought under the operation of the proclamation for that particular railway; but that was a matter of ordinary business which could not be avoided. As to trying to meet the difficulty by an amendment, as suggested by the Hon. Mr. Clewett, that would be impossible, because they would have to make provision for every different kind of case that could arise. Then, again, Parliament had an opportunity of saying whether the proposed contract came fairly within the scope of what was the intention of the Bill. It was unnecessary for them to attempt to go into any details which they could not altogether foresee.

The HON. J. C. HEUSSLER said that in cases where a railway would be made through a district in which land was not available for payment for the line, he supposed there would be an arrangement with the Government that the contractors should take some other land. If the definition of "Crown lands" which the Solicitor-General had given was correct, he did not see any difficulty, and if it were not correct, they must set it right. The Solicitor-General's interpretation was that lands occupied by squatters and others were not Crown lands. That was a question they should be very clear about.

The HON. W. FORREST said the definition of "Crown lands" which had been read by the Hon. Mr. Gregory was quite clear. He would suggest a plan which the Government might perhaps have thought about, to obviate the difficulty they all saw. When lands were divided the lessee retained one portion, and the other portion was taken by the Government, although the lessee could hold it under a grazing right until it was selected. They could all see from

the various actions that were disputed and heard before the board that the lessees were never satisfied with the divisions of the land by the commissioners, and the lessees would nearly always like to keep the portion that the Government wished to take away; that exchange could be made with the Government under the present law. There was another thing he would like to see made clear. Under clause 102 of the Act of 1884, any land under lease might be resumed, and compensation be determined by the Board. But if the pastoral lessee were not satisfied, he gave notice, and the matter came under the Public Works Lands Resumption Act, and was left to arbitration. Seeing that holdings might be resumed, he thought they might be prevented from being resumed upon any very harsh terms. They could not get better occupants than those already in possession of the land.

Clause put and passed.

On clause 3, as follows:—

“Whenever the construction of a line of railway between specified termini, with or without the definition of a specified route, has been approved by a resolution of both Houses of Parliament, the Minister, with the sanction of the Governor in Council, and subject to the conditions prescribed by this Act, may make a contract with a company for the construction or for the construction, maintenance, and working of such railway.”

The HON. J. D. MACANSH said the words “or without,” in the 2nd line, should certainly be omitted, because the route should be known. He believed most of the lines to be constructed upon this principle would be in the interior, and it was very likely that they would pass through leased lands, and there would be no resumed lands with which to pay the company. The route should be very clearly pointed out.

The SOLICITOR-GENERAL said he could not understand the hon. gentleman's contention, because resolutions had to be adopted by both Houses before a contract could be made, and if the Parliament of the day was prepared to pass such resolutions agreeing to the construction of a line without a specified route why should it not do so? They had no right to legislate so as to bind future Parliaments. Circumstances might arise under which it might be practically impossible; a Parliament might think it a very good thing that a specified route should not be given. If those words were left out they would be trying to fetter future Parliaments, and he should oppose any attempt in that direction.

The HON. F. T. BRETNALL said he did not think the hands of future Parliaments would be tied very much more than they were tied under their present system of constructing railways with borrowed money. Before they sanctioned the construction of any railway it was an invariable rule that the plans and specifications should be laid before them, and be submitted for the approval of a select committee. What he understood the Hon. Mr. Macansh to suggest was nothing more than that, if as much. By leaving out those words they would ensure that not only the termini but the whole route would be known.

The SOLICITOR-GENERAL: Both Houses can object if they do not like the proposed route.

The HON. F. T. BRETNALL said it would remain entirely with the Ministry to make a contract; that very clause said so, and Parliament had nothing further to do with the route. All Parliament would have to do would be to approve of the contract within fourteen days. His objection to the clause was that it handed over enormous power to the Minister, and took it almost entirely out of the hands of Parliament, in whose hands it was at the present time. The discussion which had taken place in reference to Crown lands, and the areas which would be open

for selection by the contractors, had confirmed him in the opinion that they ought to know something about the route to be taken. It had been said again and again that the contractors would have the opportunity of taking land wherever land was available, and it was not likely that they would take the line along the route which would be the most convenient for the general public, but rather in a zigzag fashion—gerrymandering, as it was called—about the country, so as to best suit their own purposes. If the route of the line had to be approved by Parliament on the principle which had hitherto been followed, it would be a route chosen for the benefit of the public, and not for the benefit of the contractors. As the Bill stood, the company would have power, with the sanction of the Minister, to take the line wherever they liked. The contract would be laid before Parliament, and if Parliament did not approve of the contract it would be a provisional contract. He trusted that the Committee would strike out the words “or without,” and let it be a positive insistence that the direction of the railway should be known to both Houses, and that Parliament should not be called upon to vote for the construction of a railway while they were in the dark as to the route.

The SOLICITOR-GENERAL said the Hon. Mr. Macansh had raised a bogie, and the Hon. Mr. Brentnall was very much alarmed at it. It would be impossible for the Minister to make a contract without the sanction of both Houses, and if either House was not willing to sanction the making of a contract without a specified route it would be competent for that House to reject it. Why should not the House, whether the route was specified or not, be in a position to give the Minister the power to make a contract? In some cases it might be advisable, and in some cases it might not. The hon. gentleman talked about the present system, but he (the Solicitor-General) wondered how many members looked at plans and specifications of a railway that were laid on the table of the House. The hon. gentleman also talked about lines being made for the benefit of the public; but it was well known that some lines had been made for the benefit of individuals in the past. Under clause 3 the House could either approve or disapprove of the Minister's action before any contract was made, and it was not advisable to fetter the action of future Parliaments.

The HON. SIR A. H. PALMER said he had been in Parliament six and twenty years, and had seen a great many plans of railways laid on the table, but he could not remember half a dozen member who had examined them. And those who did examine them understood less about the railways than the members who never looked at the plans. He had examined plans, and had left them with a more confused idea of the railway than he had before he looked at the plans. When a railway was to be made the engineer must be trusted to take the best levels; and any company making a railway under the provisions of the Bill would, for its own sake, take the best levels. The contract was subject to the approval of both Houses, and if any gerrymandering went on it would be easy to stop it by disapproving of the contract.

The HON. J. T. SMITH said that in clause 15 some provision was made for the matter under consideration. It said that before the contract was laid before Parliament the Governor in Council might, by Order in Council, authorise the company to make the necessary surveys for the railway and for that purpose to enter upon any public or private lands along the line of the intended railway, and also to take all other necessary preliminary steps for the future

construction of the railway. But particularly it said that the company might be authorised to make the necessary surveys for the railway before a copy of the contract was put on the table. The discretion of the Government came in there; and if it was necessary that a survey should be made, they would have it made.

The HON. A. C. GREGORY said he thought it would be unwise to make the clause too narrow in its scope, as they had full power to refuse to sanction any line brought before the House unless sufficient material to satisfy them was brought forward. He thought the majority of hon. gentlemen had been deluding themselves into the belief that when they had plans and specifications laid on the table and approved of them, those were the lines which were afterwards carried out. That was not always the case. On one occasion when the plans of a railway were being considered by a select committee, he put some questions to the surveyor and found that it would be impossible to carry the line along the track laid down. The surveyor said they intended to go round, and so they did. They went round eight or nine miles away from the line that was passed. He simply gave that as an instance. It was better that the matter should be open, and that they should require such a definition of the line before they approved of it as the circumstances of the case might demand. It was possible to sanction a line on the English system—that was, to give authority to make a line from such a place to such a place, the line to go generally along so and so, and allow the contractors to deviate so much from that line, in order to improve the construction. It was undesirable that the clause should be modified, so as to obstruct the free hand of the Parliament before whom the question would be brought.

The HON. W. FORREST said he would point out, in reference to a remark made by the Hon. Mr. Brentnall, that the company could not go gerrymandering about the country picking the land. The Government took power to set apart for the purpose of the subsidy certain lands, and the company must select within those reservations; and within those areas they could only select alternate blocks.

The HON. F. CLEWETT said with regard to gerrymandering it was possible that, if the land the company were to get was of such a character that they could succeed in getting a large quantity, the company might try to make the line longer than would be necessary. He thought, however, that authority might be left in the hands of the Government, as the clause proposed, because what they did would be subject to the sanction of Parliament. If they laid down a hard-and-fast line, no company would be disposed to go into the construction of a railway.

Clause put and passed.

Clauses 4 and 5 passed as printed.

On clause 6—"Reservation of Crown lands for railway subsidy"—

The HON. F. T. BRENTNALL said the difficulty to which he had already referred cropped up again in that clause. They were passing clause after clause putting enormous power into the hands of the Minister, who was not only to enter into a contract, but was to specify in that contract the value of the land to be granted. That was in the clause which had just been passed. With regard to the clause now before the Committee, he wished to draw attention to the 2nd paragraph, which said—

"If practicable the reservation shall be of lands on both sides of the line of the proposed railway, and as nearly as may be in equal areas on each side, but if there is not any land, or if there is not sufficient land, of a suitable character on either side, the whole may be reserved on one side."

If there was not any land on either side, or if there was not sufficient land of a suitable character on either side, he was not able to see how the whole could be reserved on one side.

The SOLICITOR-GENERAL said that, ordinarily, the areas set apart would be an equal amount of land on either side of the line, but it might happen in one particular place that the land on one side might be worthless or barren, and then there would have to be a reservation of double the amount on the other side. He admitted that that part of the clause was curiously drafted, though he could see what was the intention. Possibly it would be better to postpone the clause.

The HON. F. T. BRENTNALL said it might be put in this form—"If there is no land, or if there is not sufficient land, of a suitable character on one side or the other, the whole may be reserved on either side."

Clause postponed.

Clauses 7 and 8 passed as printed.

On clause 9—"Capital of companies"—

The HON. F. CLEWETT said he thought it was desirable that provision should be made for roads. In clause 8 it was provided that no block should have a greater frontage to the line than ten miles, and that the frontage of a block should not exceed its depth.

The SOLICITOR-GENERAL said that was in the 8th clause, which had been passed.

Clause put and passed.

Clause 10 passed as printed.

On clause 11—"Company to transmit plan of railway to Minister"—

The HON. A. C. GREGORY said that clause would provide for some of the difficulties that appeared to arise in the earlier part of the Bill, because the survey had to be made; and, if the survey was in existence, he thought that Chamber, at any rate, would require that it be produced.

Clause put and passed.

Clause 12 passed as printed.

On clause 13—"When contract entered into Minister to publish general purport of the contract in *Gazette*"—

The HON. F. CLEWETT said he thought it would be desirable, if practicable, to advertise the contracts in some leading newspaper, as well as in the *Gazette*. No doubt the *Gazette* was a very useful publication, but a great many people never saw it.

The SOLICITOR-GENERAL said he did not think it would be practicable to do as the hon. gentleman suggested.

Clause put and passed.

On the motion of the SOLICITOR-GENERAL, the House resumed; the CHAIRMAN reported progress, and the Committee obtained leave to sit again on Tuesday next.

ADJOURNMENT.

The SOLICITOR-GENERAL said: Hon. gentlemen,—I move that this House do now adjourn.

Question put and passed.

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